

No. 24-1046

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IN THE  
**Supreme Court of the United States**

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JASON WOLFORD, *et al.*,

*Petitioners,*

*v.*

ANNE E. LOPEZ, ATTORNEY GENERAL OF HAWAII,

*Respondent.*

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ON WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE NINTH CIRCUIT

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**JOINT APPENDIX**

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PETITION FOR CERTIORARI FILED APRIL 1, 2025  
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The petition, filed on April 1, 2025, includes the following additional documents:

OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, FILED SEPTEMBER 6, 2024

ORDER OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII, FILED AUGUST 8, 2023

ORDER DENYING REHEARING EN BANC AND DISSENT OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, FILED JANUARY 15, 2025

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JOINT STIPULATION IN THE UNITED  
STATES DISTRICT COURT FOR  
THE DISTRICT OF HAWAI'I, DATED  
SEPTEMBER 6, 2023

ORDER OF THE UNITED STATES COURT  
OF APPEALS FOR THE NINTH CIRCUIT,  
FILED JANUARY 17, 2025

**APPENDIX A — VERIFIED COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE RELIEF,  
UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF HAWAII, FILED JUNE 23, 2023**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

Civil Action No. \_\_\_\_\_

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF THE STATE  
OF HAWAII, MAUI COUNTY

*Defendants.*

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**VERIFIED COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

COME NOW the Plaintiffs, JASON WOLFORD, ALISON WOLFORD, ATOM KASPRZYCKI, and HAWAII FIREARMS COALITION, by and through their undersigned counsel, and complains of the Defendants as follows:

**I**

**PARTIES**

**Plaintiffs**

1. Plaintiff Jason Wolford (Jason Wolford) is a natural person, an adult male resident of the State of Hawaii and resides in Maui County and is a citizen of the United States. But for the laws challenged in this lawsuit, he would carry in all the places discussed in this lawsuit;
2. Plaintiff Alison Wolford (Alison Wolford) is a natural person, an adult female resident of the State of Hawaii and resides in Maui County and is a citizen of the United States. But for the laws challenged in this lawsuit, she would carry in all the places discussed in this lawsuit;
3. Plaintiff Atom Kasprzycki (Kasprzycki) is a natural person, an adult male resident of the State of Hawaii and resides in Maui county and is a citizen of the United States. But for the laws challenged in this lawsuit, he would carry in all the places discussed in this lawsuit;

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4. Plaintiff Hawaii Firearms Coalition (HIFICO) is a member driven organization incorporated under the laws of the State of Hawaii with its principal place of business in Honolulu, Hawaii, Hawaii Firearms Coalition promotes legislative and legal action, as well as research, publishing, and advocacy, in support of people’s civil liberties. Hawaii Firearms Coalition litigates firearm-regulation cases, and it has consistently advocated for a principled interpretation of the United States Constitution to prevent government from violating the basic civil rights of its citizens. Members of HFC have provided informed analysis in a variety of firearm related cases, including *Roberts vs. City and County of Honolulu*, Civ. No. 15-00467 ACK-RLP, and *Roberts vs. Ballard*, et al., Civ. No. 18-00125. HIFICO has over 416 members in Hawaii. HIFICO has 33 members in Maui and all the other Hawaiian Counties with valid concealed carry permits. But for the laws challenged within this lawsuit, they would carry in the challenged provisions. HIFICO brings this action on behalf of those members with a Hawaii concealed carry permit, from any county, including the named Plaintiffs herein;

**Defendants**

5. Defendant Anne E. Lopez is the Attorney General of the State of Hawaii (“State”) and is sued in her official capacity and is responsible for enforcing the State of Hawaii’s customs, policies, practices and laws related to the State of Hawaii on the acquisition, possession, registration, carrying of weapons openly and concealed, and criminal laws including those related to the carrying and use of firearms and private properties allowing or disallowing the carriage of arms. Defendant Lopez may

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be served at the Office of Attorney General located at 425 Queen St, Honolulu, Hawaii 96813;

6. Defendant County of Maui (“County”) is a municipal corporation incorporated under the laws of the State of Hawaii. The County is authorized by law to control and maintain the Maui Police Department, an agency of the County, who acts on the County’s behalf in the area of law enforcement. Maui county also employs County Deputy prosecuting Attorneys who are responsible for initiating, through penal summons, law enforcement officer initiated tickets and citations, complaints, informations, and indictments, criminal charges against persons and entities. The County is therefore ultimately responsible for Maui Police Department (“MPD”), and the Maui County Prosecutor’s Office and their actions, and therefore, must assume the risks incidental to the maintenance of MPD, and the County Prosecuting Attorney’s office, their employees, laws, customs and policies. The County can be served by serving the Department of the Corporation Counsel, County of Maui at 200 South High Street, Kalana O Maui Bldg, 3rd Floor, Wailuku, HI 96793;

**II**

**JURISDICTION AND VENUE**

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343, 2201, 2202 and 42 U.S.C. § 1983 and § 1988;

8. Venue lies in this Court pursuant to 28 U.S.C. § 1391;

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**III**

**STATEMENT OF LAW**

**SECOND AMENDMENT**

9. The Second Amendment to the United States Constitution provides: “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed.”;

10. The Second Amendment guarantees individuals a fundamental right to keep and carry arms for self-defense and defense of others in the event of a violent confrontation. *District of Columbia v. Heller*, 554 U.S. 570 (2008); *McDonald v. Chicago*, 561 U.S. 742 (2010); *Caetano v. Massachusetts*, 577 U.S. 1027 (2016);

11. Firearms are protected by the Second Amendment. *District of Columbia v. Heller*, 554 U.S. 570 (2008);

12. The Second Amendment is applicable to the States as incorporated through the Due Process Clause of Fourteenth Amendment because the right to “keep and bear Arms” is a fundamental constitutional right essential to ordered liberty. *McDonald v. City of Chicago*, 561 U.S. 742 (2010). “[T]he Second Amendment extends, prima facie, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding.” *District of Columbia v. Heller*, 554 U.S. 570, 582 (2008). The Fourteenth Amendment to the United States Constitution provides in pertinent part: No state shall

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make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

13. "[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;

14. In *Bruen*, the Supreme Court held unconstitutional New York's "good cause" licensing requirement because a State may not condition the right to publicly carry handguns on a citizen's "special need for self-defense." *Bruen*, 142 S.Ct. at 2135 n.8;

15. The "general right to public carry" cannot be restricted absent "*exceptional* circumstances." *Bruen*, 142 S. Ct. at 2156 (emphasis added). This is because the Second Amendment "presumptively protects" carrying firearms. *Id.* At 2129. 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;

16. It is the State's burden to "affirmatively prove that its firearms regulation is part of the historical tradition that

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delimits the outer bounds of the right to keep and bear arms.” 142 S.Ct. 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;

17. The *Bruen* Court struck down as unconstitutional New York’s “proper cause” requirement for issuance of a permit to carry a handgun in public. In doing so, *Bruen* explicitly rejected New York’s attempt to justify its restriction as analogous to a historical “sensitive place” regulation. 142 S.Ct. at 2133-34. The Court explained that a state may not simply ban guns wherever people may “congregate” or assemble. A rule that “expand[ed] the category of ‘sensitive places’ simply to all places of public congregation that are not isolated from law enforcement defines the category of ‘sensitive places’ far too broadly.” 142 S.Ct. at 2134. As the Court explained, “[p]ut simply, there is no historical basis for New York to effectively declare the island of Manhattan a ‘sensitive place’ simply because it is crowded and protected generally by the New York City Police Department.” *Id.*;

18. If a state seeks to restrict firearms in a particular location as a “sensitive place,” then it must prove that its current restriction is sufficiently analogous to “well-established and representative historical analogue.” In *Bruen*, the Court identified only five such locations that may have a historical basis: “schools and government buildings” as well as “legislative assemblies, polling places, and courthouses.” *Id.* At 2133, citing *District*

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of *Columbia v. Heller*, 554 U.S. 570, 626 (2008). *Bruen* held that the lower “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.*

19. *Bruen* further establishes several requirements to determine whether a historical regulation is sufficiently analogous. First, the relevant time period for the historical analogue must be the Founding, centering on 1791. *Bruen*, 142 S.Ct. at 2135-36. 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 *District of Columbia v. Heller*, 554 U.S. 570, 634-35 (2008). “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;

20. 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 those restrictions with roots at the time of the Founding are sufficiently “enduring” and “well-established” to 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));

21. Second, the historical analogue must be “representative.” Historical “outlier” requirements

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of a few jurisdictions or of the Territories are to be disregarded. *Bruen*, 142 S.Ct. at 2133, 2153, 2147 n.22 & 2156. Courts should not “uphold every modern law that remotely resembles a historical analogue,” because doing so “risk[s] endorsing outliers that our ancestors would never have accepted.” *Drummond v. Robinson*, 9 f.4th 217 (3rd. Cir 2021),- individual self-defense is the central component of the Second Amendment right;

22. Third, the historical analogue must be “relevantly similar,” which is to say that it must burden ordinary, law-abiding citizens right to carry in a similar manner and for similar reasons. *Bruen*, 142 S. Ct. at 2132. *Bruen* thus held that the inquiry into whether a proper analogue exists 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). “[T]o the extent later history contradicts what the text says, the text controls.” *Id.* at 2137. “Thus, ‘postratification adoption or acceptance of laws that are inconsistent with the original meaning of the constitutional text obviously cannot overcome or alter that text.’” *Id.*, quoting *Heller v. District of Columbia*, 670 F.3d , 670 F.3d 1224, 1274, n.6 (Kavanaugh, J., dissenting);

23. Fourth, the historical analysis required by the Supreme Court is fundamentally a legal inquiry that examines legal history, which is appropriately presented

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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 on any of the factual issues raised by the dissent”). Accordingly, the required analysis does not require fact-finding by a court;

24. The text of the Second Amendment, as authoritatively interpreted by the Supreme Court, indisputably covers possession (keep) and the wear, carry, and transport (bear) of firearms, including handguns by ordinary, law-abiding citizens. Beyond the five locations specifically identified by the Supreme Court in *Bruen* as possibly having an historical basis, the State bears the burden to demonstrate that there is an enduring, well-established, representative historical analogue to the restriction imposed by the government. And the historical analogue must be “relevantly similar” to the contemporary restriction imposed by the government, burdening the Second Amendment right in a similar manner and for similar reasons. Under this test established in *Bruen*, the State cannot meet its burden to justify its bans on the wear, carry, and transport of firearms in or at the locations challenged here;

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IV

INTRODUCTION

**H.R.S. §134 Firearms**

25. Hawaii law, specifically Hawaii Revised Statutes Section 134 *et seq*, is a comprehensive set of laws covering all aspects of firearms in Hawaii including everything from acquisition, possession, ownership, usage and carriage of arms;

26. Prior to the United States Supreme Court decision in *Bruen*, Hawaii law, specifically HRS 134-9, dealt with the carriage of weapons, and it read, and today reads-

“ **§134-9 Licenses to carry.** (a) In an exceptional case, when an applicant shows reason to fear injury to the applicant’s person or property, the chief of police of the appropriate county may grant a license to an applicant who is a citizen of the United States of the age of twenty-one years or more or to a duly accredited official representative of a foreign nation of the age of twenty-one years or more to carry a pistol or revolver and ammunition therefor concealed on the person within the county where the license is granted. Where the urgency or the need has been sufficiently indicated, the respective chief of police may grant to an applicant of good moral character who is a citizen of the United States of the age of twenty-one years or more, is engaged in the protection of life and property, and is not prohibited under section 134-7 from the ownership or possession of a firearm, a license to carry

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a pistol or revolver and ammunition therefor unconcealed on the person within the county where the license is granted. The chief of police of the appropriate county, or the chief's designated representative, shall perform an inquiry on an applicant by using the National Instant Criminal Background Check System, to include a check of the Immigration and Customs Enforcement databases where the applicant is not a citizen of the United States, before any determination to grant a license is made. Unless renewed, the license shall expire one year from the date of issue.

(b) The chief of police of each county shall adopt procedures to require that any person granted a license to carry a concealed weapon on the person shall:

(1) Be qualified to use the firearm in a safe manner;

(2) Appear to be a suitable person to be so licensed;

(3) Not be prohibited under section 134-7 from the ownership or possession of a firearm; and

(4) Not have been adjudged insane or not appear to be mentally deranged.

(c) No person shall carry concealed or unconcealed on the person a pistol or revolver

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without being licensed to do so under this section or in compliance with sections 134-5(c) or 134-25.

(d) A fee of \$10 shall be charged for each license and shall be deposited in the treasury of the county in which the license is granted.”;

27. Prior to *Bruen*, based upon information and belief, the counties only issued open carry permits for armored vehicle drivers and not to the general public;

28. Prior to *Bruen*, the counties had only issued less than a half-dozen carry concealed permits in the prior decades, see *Young v. County of Hawaii*, 142 S.Ct. 2895<sup>1</sup>;

29. Because there was effectively not a single person in the State of Hawaii with a concealed permit to carry a firearm, there were no Hawaii Revised Statutes regarding where concealed arms could be carried, i.e. there were no “sensitive places” specified under the HRS- since Hawaii didn’t let anyone carry a concealed weapon it was not necessary to specify where a concealed carry permit holder could carry a firearm;

30. Following *Bruen*, while county police chiefs

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1. *Young* was vacated and reversed by the U.S. Supreme Court following the *Bruen* decision. See e.g. *Young v. Hawaii*, 896 F.3d 1044, 1071 n.21 (9th Cir. 2018) (“Hawaii counties appear to have issued only *four* concealed carry licenses in the past *eighteen* years. See 2000 Haw. Att’y Gen. Reps., *Firearm Registrations in Hawaii, 2000 et seq.*”).

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promulgated onerous and burdensome rules pursuant to HRS 134-9(b) and started to issue a handful of concealed carry permits, the State legislature met.

31. In Maui County, presently, concealed carry permit applicants must pass a shooting test in order to qualify for a carry permit; and Plaintiffs Jason Wolford, Alison Wolford and Atom Kasprzycki all have current, valid concealed carry permits.

32. The state legislature, in response to *Bruen* passed SB 1230 and on June 2, 2023 Governor Green signed the bill into law;

**SB1230**

33. SB1230 takes effect on July 1, 2023, except for Sections 4 and 7 which take effect on January 1, 2024 related to permits to acquire and permits to carry concealed and openly<sup>2</sup>. SB1230 created fifteen broad categories of sensitive places including adjacent land and parking lots that render carry concealed permits almost completely useless;

34. SB1230 creates HRS 134-A which reads-

***“Carrying or possessing a firearm in certain locations and premises prohibited; penalty.*** (a) A person with a

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2. The current counties’ rules regarding the issuance of concealed carry permits and SB1230’s laws regarding carry concealed permits, are all thoroughly strict and onerous but are not challenged here. The three natural person Plaintiffs all qualify currently and under SB1230’s requirements as well.

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license issued under section 134-9, or authorized to carry a firearm in accordance with title 18 United States Code section 926B or 926C, shall not intentionally, knowingly, or recklessly carry or possess a loaded or unloaded firearm, whether the firearm is operable or not, and whether the firearm is concealed or unconcealed, while in any of the following locations and premises within the State:

- (1) Any building or office owned, leased, or used by the State or a county, and adjacent grounds and parking areas, including any portion of a building or office used for court proceedings, legislative business, contested case hearings, agency rulemaking, or other activities of state or county government;
- (2) Any public or private hospital, mental health facility, nursing home, clinic, medical office, urgent care facility, or other place at which medical or health services are customarily provided, including adjacent parking areas;
- (3) Any adult or juvenile detention or correctional facility, prison, or jail, including adjacent parking areas;
- (4) Any bar or restaurant serving alcohol or intoxicating liquor as defined in section 281-1 for consumption on the premises, including adjacent parking areas;
- (5) Any stadium, movie theater, or concert hall, or any place at which a professional collegiate, high school, amateur, or student sporting event is being held, including adjacent parking areas;

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- (6) All public library property, including buildings, facilities, meeting rooms, spaces used for community programming, adjacent grounds, and parking areas;
- (7) The campus or premises of any public or private community college, college, or university, and adjacent parking areas, including buildings, classrooms, laboratories, research facilities, artistic venues, and athletic fields or venues;
- (8) The campus or premises of any public school, charter school, private school, preschool, summer camp, or child care facility as defined in section 346-151, including adjacent parking areas, but not including:
  - (A) A private residence at which education is provided for children who are all related to one another by blood, marriage, or adoption; or
  - (B) A dwelling when not used as a child care facility;
- (9) Any beach, playground, park, or adjacent parking area, including any state park, state monument, county park, tennis court, golf course, swimming pool, or other recreation area or facility under control, maintenance, and management of the State or a county, but not including an authorized target range or shooting complex;
- (10) Any shelter, residential, or programmatic facility or adjacent parking area operated by a government entity or charitable organization serving unhoused persons, victims of domestic violence, or children, including children

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involved in the juvenile justice system;

(11) Any voter service center as defined in section 11-1 or other polling place, including adjacent parking areas;

(12) The premises of any bank or financial institution as defined in section 211D-1, including adjacent parking areas;

(13) Any place, facility, or vehicle used for public transportation or public transit, and adjacent parking areas, including buses, paratransit vans, bus shelters and terminals (but not including bus stops located on public sidewalks), trains, rail stations, and airports;

(14) Any amusement park, aquarium, carnival, circus, fair, museum, water park, or zoo, including adjacent parking areas;

(15) Any public gathering, public assembly, or special event conducted on property open to the public, including any demonstration, march, rally, vigil, protest, picketing, or other public assembly, for which a permit is obtained from the federal government, the State, or a county, and the sidewalk or street immediately adjacent to the public gathering, public assembly, or special event; provided that there are signs clearly and conspicuously posted at visible places along the perimeter of the public gathering, public assembly or special event”;

35. SB1230 HRS 134-A (b) provides that the areas in 134-A(a) shall not apply to a person in an exempt category, such as law enforcement officers;

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36. SB1230 HRS 134-A(b) also provides affirmative defenses to carrying in the locations listed in 134-A(a);

37. SB1230 HRS 134-A(c) provides “The presence of a person in any location or premises listed in subsection (a) shall be prima facie evidence that the person knew it was a location or premises listed in subsection (a);

38. SB1230 HRS 134-A(d) provides “Where only a portion of a building or office is owned, leased, or used by the State or a county, this section shall not apply to the portion of the building or office that is not owned, leased, or used by the State or a county, unless carrying or possessing a firearm within that portion is otherwise prohibited by this section”;

39. SB1230 HRS 134-A(f) provides “Any person who violates this section shall be guilty of a misdemeanor”;

40. HRS 701-107 provides “(3) A crime is a misdemeanor if it is so designated in this Code or in a statute other than this Code enacted subsequent thereto, or if it is defined in a statute other than this Code which provides for a term of imprisonment the maximum of which is one year”;

41. SB1230 HRS 134-E provides “**Carrying or possessing a firearm on private property of another person without authorization; penalty.** (a) A person carrying a firearm pursuant to a license issued under section 134-9 shall not intentionally, knowingly, or recklessly enter or remain on private property of another person while carrying a loaded or unloaded firearm, whether the firearm is operable or not, and whether the

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firearm is concealed or unconcealed, unless the person has been given express authorization to carry a firearm on the property by the owner, lessee, operator, or manager of the property.

(b) For purposes of this section, express authorization to carry or possess a firearm on private property shall be signified by:

(1) Unambiguous written or verbal authorization; or

(2) The posting of clear and conspicuous signage at the entrance of the building or on the premises, by the owner, lessee, operator, or manager of the property, or agent thereof, indicating that carrying or possessing a firearm is authorized.

(c) For purposes of this section:

“Private entity” means any homeowners’ association, community association, planned community association, condominium association, cooperative, or any other nongovernmental entity with covenants, bylaws, or administrative rules, regulations, or provisions governing the use of private property.

“Private property” does not include property that is owned or leased by any governmental entity.

“Private property of another person”, means residential, commercial, industrial, agricultural, institutional, or undeveloped property that is privately owned or leased,

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unless the person carrying a firearm is an owner, lessee, operator, or manager of the property, including an ownership interest in a common element or limited common element of the property; provided nothing in this chapter shall be construed to limit the enforceability of a provision in any private rental agreement restricting a tenant's possession or use of firearms, the enforceability of a restrictive covenant restricting the possession or use of firearms, or the authority of any private entity to restrict the possession or use of firearms on private property.

(d) This section shall not apply to a person in an exempt category identified in section 134-11(a).

(e) Any person who violates this section shall be guilty of a misdemeanor.”

**V**

**CHALLENGED PROVISIONS OF SB1230**

42. Plaintiffs do not challenge the prohibitions in all areas under SB1230, instead, Plaintiffs challenge only a limited subset that impose particularly egregious restrictions on their Second Amendment right to bear arms. Plaintiffs do not challenge all of SB1230 or all of the Hawaii Revised Statutes or every county code. Plaintiffs do not concede that any part of SB1230 or any State law or county code is constitutional under the Second Amendment or in any other way;

43. Plaintiffs reallege and incorporate herein by reference all the foregoing allegations of this Complaint;

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**Plaintiff Jason Wolford**

44. Plaintiff Jason Wolford realleges and incorporates by reference all of the foregoing allegations of this complaint;

45. Plaintiff Jason Wolford challenges the following provisions of SB1230-

A) SB1230 HRS 134-A(a)(1) Any building or office owned, leased, or used by the State or a county, and adjacent grounds and parking areas, including any portion of a building or office used for..., or other activities of state or county government, **only** to the extent that there may be a building or office owned or leased or used by the State or a county, and adjacent grounds and parking areas, including any portion of a building or office used for other activities of state or county government when this provision overlaps or is otherwise covered by any of the other challenged provisions below;

B) SB1230 HRS 134-A(a)(4), specifically limited to “Any... restaurant serving alcohol or intoxicating liquor as defined in section 281-1 for consumption on the premises, including adjacent parking areas.”

C) SB1230 HRS 134-A(a)(9), specifically limited to “Any beach, park, or adjacent parking area, including any state park,...county park,...under control, maintenance, and management of the State or county, ...”

D) SB1230 HRS 134-A(a)(12), specifically limited to “The premises of any bank or financial institution as

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defined in section 211D-1, including adjacent parking areas.”

E) SB1230 HRS 134-E, ***“Carrying or possessing a firearm on private property of another person without authorization; penalty.*** (a) A person carrying a firearm pursuant to a license issued under section 134-9 shall not intentionally, knowingly, or recklessly enter or remain on private property of another person while carrying a loaded or unloaded firearm, whether the firearm is operable or not, and whether the firearm is concealed or unconcealed, unless the person has been given express authorization to carry a firearm on the property by the owner, lessee, operator, or manager of the property.

(b) For purposes of this section, express authorization to carry or possess a firearm on private property shall be signified by:

(1) Unambiguous written or verbal authorization; or

(2) The posting of clear and conspicuous signage at the entrance of the building or on the premises, by the owner, lessee, operator, or manager of the property, or agent thereof, indicating that carrying or possessing a firearm is authorized.

(c) For purposes of this section:

“Private entity” means any homeowners’ association, community association, planned community association, condominium association, cooperative, or any other

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nongovernmental entity with covenants, bylaws, or administrative rules, regulations, or provisions governing the use of private property.

“Private property” does not include property that is owned or leased by any governmental entity.

“Private property of another person”, means residential, commercial, industrial, agricultural, institutional, or undeveloped property that is privately owned or leased, unless the person carrying a firearm is an owner, lessee, operator, or manager of the property, including an ownership interest in a common element or limited common element of the property; provided nothing in this chapter shall be construed to limit the enforceability of a provision in any private rental agreement restricting a tenant’s possession or use of firearms, the enforceability of a restrictive covenant restricting the possession or use of firearms, or the authority of any private entity to restrict the possession or use of firearms on private property.

(d) This section shall not apply to a person in an exempt category identified in section 134-11(a).

(e) Any person who violates this section shall be guilty of a misdemeanor.”

**Plaintiff Alison Wolford**

46. Plaintiff Alison Wolford realleges and incorporates by reference all of the foregoing allegations of this complaint;

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47. Plaintiff Alison Wolford challenges the following provisions of SB1230-

A) SB1230 HRS 134-A(a)(1) Any building or office owned, leased, or used by the State or a county, and adjacent grounds and parking areas, including any portion of a building or office used for..., or other activities of state or county government, ***only to the extent that there may be a building or office owned or leased or used by the State or a county, and adjacent grounds and parking areas, including any portion of a building or office used for other activities of state or county government when this provision overlaps or is otherwise covered by any of the other challenged provisions below;***

B) SB1230 HRS 134-A-(a)(4), specifically limited to “Any... restaurant serving alcohol or intoxicating liquor as defined in section 281-1 for consumption on the premises, including adjacent parking areas.”

C) SB1230 HRS 134-A-(a)(9), specifically limited to “Any beach, park, or adjacent parking area, including any state park,...county park,...under control, maintenance, and management of the State or county, ...”

D) SB1230 HRS 134-A-(a)(12), “The premises of any bank or financial institution as defined in section 211D-1, including adjacent parking areas.”

E) SB1230 HRS 134-E, “***Carrying or possessing a firearm on private property of another person without authorization; penalty.***”

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(a) A person carrying a firearm pursuant to a license issued under section 134-9 shall not intentionally, knowingly, or recklessly enter or remain on private property of another person while carrying a loaded or unloaded firearm, whether the firearm is operable or not, and whether the firearm is concealed or unconcealed, unless the person has been given express authorization to carry a firearm on the property by the owner, lessee, operator, or manager of the property.

(b) For purposes of this section, express authorization to carry or possess a firearm on private property shall be signified by:

(1) Unambiguous written or verbal authorization; or

(2) The posting of clear and conspicuous signage at the entrance of the building or on the premises, by the owner, lessee, operator, or manager of the property, or agent thereof, indicating that carrying or possessing a firearm is authorized.

(c) For purposes of this section:

“Private entity” means any homeowners’ association, community association, planned community association, condominium association, cooperative, or any other nongovernmental entity with covenants, bylaws, or administrative rules, regulations, or provisions governing the use of private property.

“Private property” does not include property that is owned or leased by any governmental entity.

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“Private property of another person”, means residential, commercial, industrial, agricultural, institutional, or undeveloped property that is privately owned or leased, unless the person carrying a firearm is an owner, lessee, operator, or manager of the property, including an ownership interest in a common element or limited common element of the property; provided nothing in this chapter shall be construed to limit the enforceability of a provision in any private rental agreement restricting a tenant’s possession or use of firearms, the enforceability of a restrictive covenant restricting the possession or use of firearms, or the authority of any private entity to restrict the possession or use of firearms on private property.

(d) This section shall not apply to a person in an exempt category identified in section 134-11(a).

(e) Any person who violates this section shall be guilty of a misdemeanor.”

**Plaintiff Atom Kasprzycki**

48. Plaintiff Kasprzycki realleges and incorporates by reference all of the foregoing allegations of this complaint;

49. Plaintiff Kasprzycki challenges the following provisions of SB1230-

A) SB1230 HRS 134-A(a)(1) Any building or office owned, leased, or used by the State or a county, and adjacent grounds and parking areas, including any portion of a building or office used for..., or other activities of

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state or county government, **only** to the extent that there may be a building or office owned or leased or used by the State or a county, and adjacent grounds and parking areas, including any portion of a building or office used for other activities of state or county government when this provision overlaps or is otherwise covered by any of the other challenged provisions below;

B) SB1230 HRS 134-A-(a)(4), specifically limited to “Any... restaurant serving alcohol or intoxicating liquor as defined in section 281-1 for consumption on the premises, including adjacent parking areas.”

C) SB1230 HRS 134-A-(a)(9), specifically limited to “Any beach, park, or adjacent parking area, including any state park,...county park,...under control, maintenance, and management of the State or county, ...”

D) SB1230 HRS 134-A-(a)(12), “The premises of any bank or financial institution as defined in section 211D-1, including adjacent parking areas.”

E) SB1230 HRS 134-E, “***Carrying or possessing a firearm on private property of another person without authorization; penalty.***”

(a) A person carrying a firearm pursuant to a license issued under section 134-9 shall not intentionally, knowingly, or recklessly enter or remain on private property of another person while carrying a loaded or unloaded firearm, whether the firearm is operable or not, and whether the firearm is concealed or unconcealed,

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unless the person has been given express authorization to carry a firearm on the property by the owner, lessee, operator, or manager of the property.

(b) For purposes of this section, express authorization to carry or possess a firearm on private property shall be signified by:

(1) Unambiguous written or verbal authorization; or

(2) The posting of clear and conspicuous signage at the entrance of the building or on the premises, by the owner, lessee, operator, or manager of the property, or agent thereof, indicating that carrying or possessing a firearm is authorized.

(c) For purposes of this section:

“Private entity” means any homeowners’ association, community association, planned community association, condominium association, cooperative, or any other nongovernmental entity with covenants, bylaws, or administrative rules, regulations, or provisions governing the use of private property.

“Private property” does not include property that is owned or leased by any governmental entity.

“Private property of another person”, means residential, commercial, industrial, agricultural, institutional, or undeveloped property that is privately owned or leased, unless the person carrying a firearm is an owner, lessee, operator, or manager of the property, including

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an ownership interest in a common element or limited common element of the property; provided nothing in this chapter shall be construed to limit the enforceability of a provision in any private rental agreement restricting a tenant's possession or use of firearms, the enforceability of a restrictive covenant restricting the possession or use of firearms, or the authority of any private entity to restrict the possession or use of firearms on private property.

(d) This section shall not apply to a person in an exempt category identified in section 134-11(a).

(e) Any person who violates this section shall be guilty of a misdemeanor.”

**Plaintiff HIFICO**

50. Plaintiff HIFICO realleges and incorporates by reference all of the foregoing allegations of this complaint;

51. Plaintiff HIFICO challenges the following provisions of SB1230 on behalf of the named Plaintiffs, who are HIFICO members, and all HIFICO members with valid carry concealed permits within the state of Hawaii-

A) SB1230 HRS 134-A(a)(1) Any building or office owned, leased, or used by the State or a county, and adjacent grounds and parking areas, including any portion of a building or office used for..., or other activities of state or county government, **only** *to the extent that there may be a building or office owned or leased or used by the State or a county, and adjacent grounds and parking areas, including any portion of a building or office used*

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*for other activities of state or county government when this provision overlaps or is otherwise covered by any of the other challenged provisions below;*

B) SB1230 HRS 134-A-(a)(4), specifically limited to “Any... restaurant serving alcohol or intoxicating liquor as defined in section 281-1 for consumption on the premises, including adjacent parking areas.”

C) SB1230 HRS 134-A-(a)(9), specifically limited to “Any beach, park, or adjacent parking area, including any state park,...county park,...under control, maintenance, and management of the State or county, ...”

D) SB1230 HRS 134-A-(a)(12), “The premises of any bank or financial institution as defined in section 211D-1, including adjacent parking areas.”

E) SB1230 HRS 134-E, “***Carrying or possessing a firearm on private property of another person without authorization; penalty.*** (a) A person carrying a firearm pursuant to a license issued under section 134-9 shall not intentionally, knowingly, or recklessly enter or remain on private property of another person while carrying a loaded or unloaded firearm, whether the firearm is operable or not, and whether the firearm is concealed or unconcealed, unless the person has been given express authorization to carry a firearm on the property by the owner, lessee, operator, or manager of the property.

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(b) For purposes of this section, express authorization to carry or possess a firearm on private property shall be signified by:

(1) Unambiguous written or verbal authorization; or

(2) The posting of clear and conspicuous signage at the entrance of the building or on the premises, by the owner, lessee, operator, or manager of the property, or agent thereof, indicating that carrying or possessing a firearm is authorized.

(c) For purposes of this section:

“Private entity” means any homeowners’ association, community association, planned community association, condominium association, cooperative, or any other nongovernmental entity with covenants, bylaws, or administrative rules, regulations, or provisions governing the use of private property.

“Private property” does not include property that is owned or leased by any governmental entity.

“Private property of another person”, means residential, commercial, industrial, agricultural, institutional, or undeveloped property that is privately owned or leased, unless the person carrying a firearm is an owner, lessee, operator, or manager of the property, including an ownership interest in a common element or limited common element of the property; provided nothing in this chapter shall be construed to limit the enforceability of

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a provision in any private rental agreement restricting a tenant's possession or use of firearms, the enforceability of a restrictive covenant restricting the possession or use of firearms, or the authority of any private entity to restrict the possession or use of firearms on private property.

(d) This section shall not apply to a person in an exempt category identified in section 134-11(a).

(e) Any person who violates this section shall be guilty of a misdemeanor.”

**COUNT I**

**U.S. CONST., AMEND. II**

52. Plaintiffs repeat and reallege the allegations of the preceding paragraphs as if set forth herein;

53. The State of Hawaii has not gotten the United States Supreme Court's message from *Bruen*. Prior to *Bruen*, Hawaii had treated, for more than a century, the Second Amendment as dead, buried and forgotten having almost never issued any concealed carry permits<sup>3</sup>. Once *Bruen* was decided and county police chiefs began to issue a trickle of concealed carry permits, under new county specific onerous carry concealed permit regulations, the state legislature acted to ensure that even if people managed to overcome the burdensome

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3. And apart from armored car drivers, no open carry permits.

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requirements to actually obtain a concealed carry permit, the permits would be rendered utterly useless. Hawaii merely switched gears from almost never issuing any concealed carry permits so that there was no one with a permit, to making permits now begrudgingly issued to be so limited as to make it so that permit holders could not carry anywhere. Notwithstanding the United States Constitution and the Second Amendment and the *Bruen* decision, Hawaii just simply does not want anyone to be able to carry a firearm anywhere within the state- which is their fundamental, ancient, constitutionally protected and guaranteed right.

In response to *Bruen*, the state legislature has sought to severely restrict law abiding peoples' right to defend themselves in the event of confrontation. The legislature specifically found and stated that it intended to restrict carrying and possessing arms, which it characterized as "dangerous", by law-abiding persons with concealed carry licenses<sup>4</sup>. This included in areas "traditionally" restricted, without specific reference to *Bruen*, and expansively including "other places frequented by children", which could mean anywhere from grocery stores to beaches to shopping malls. The legislature specifically referenced "... the risks to public health, safety, and welfare *associated with firearms* and gun violence,..." (Emphasis added), without examining, or even pretending to legislate with

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4. The State believes that Second Amendment rights are by their very nature dangerous and that those who exercise Second Amendment rights are by their very nature dangerous people.

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an eye toward crimes committed with or using a firearm<sup>5</sup>. Additionally, the legislature specifically stated that its act, specifically with regard to carrying on or in private property and the new requirement that a private property owner specifically “opt-in” with express authorization to exercise a constitutionally, protected right, is “...based on the legislature’s assessment of public sentiment and broadly shared preferences within the State,...”. *Bruen* is only referenced when the court noted that the Second Amendment is not a “regulatory straightjacket” and that there can be a “variety” of gun regulations”. See SB 1230 Section 1. The Second Amendment’s ancient, protected, fundamental, constitutional, unqualified command and right and *Bruen*’s analysis is not ever otherwise mentioned. The State of Hawaii’s “public sentiment” has its roots in a century<sup>6</sup> of massive infringement and

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5. See Exhibit 1 SB1230. A search for the word “crime” only produces results associated with expanding the types of crimes that render a person disqualified from owning or possessing a firearm.

6. In *Young* the State argued that arms could only be used in self-defense, under *Heller*, in one’s own home. This radical hostility to a fundamental constitutional right, that, even at the founding era was ancient, stems from some regrettable carryover from the former Hawaiian kingdom wherein a king disarmed everyone except loyal subjects in 1852 in his newly minted and thankfully short-lived kingdom. SB1230 is squarely and broadly directed at law-abiding firearm owners and the law-abiding people in a massive effort to eliminate or reduce the number of people exercising their Second Amendment rights and locations where arms can be carried in the event of confrontation. SB1230 does not purport to address, at all, crimes committed with firearms such as murder or assault except that Terroristic Threatening, a class C felony is now elevated to a class B felony if committed with a firearm.

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utter annihilation of the Second Amendment and SB1230 is an extreme over-reaction to the *Bruen* decision and a desire to basically confine *Bruen* and the Second Amendment to one's own house. The State of Hawaii has not changed its tune and its Chief law Enforcement officer still relies on a king's prerogative to disarm his subjects<sup>7</sup>. The Attorney General's representative, in testimony regarding SB1230 stated, repeatedly, that Hawaii had a long history of more than a century, since 1852 when it was a kingdom, of eliminating Second Amendment rights (see Exhibit 2). Following *Bruen*, counties in Hawaii promulgated severely restrictive concealed carry licensure regulations. With SB1230, the state legislature enacted a set of comprehensive, strict and severe concealed carry regulations, in Section 4, set to take effect on January 1, 2024. Despite the onerous concealed carry regulations presently in place and soon to be in place, the legislature enacted further draconian restrictions, on those lawabiding people, who will have undergone some form of licensure to carry concealed in the state, as to when and where they can exercise their Second Amendment rights. In fact, the sponsor of SB1230 has also even tried to repeal the Second Amendment. See SCR #42 attached as Exhibit 3.

54. This Count addresses violations of the Second Amendment to the United States Constitution and is

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7. See *Young* Amicus Brief of Hawaii Rifle Association at the United States Supreme Court proving that the 1852 penal code emanated from the prior kingdom constitutions wherein the king had all arms and weapons of war confined to himself and only loyal subjects, on the king's business, would be allowed to carry arms.

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brought pursuant to and arises under 42 U.S.C. § 1983. For purposes of this Court, each of the Defendants have acted under “color of state law” within the meaning of Section 1983. Each and every Defendant, in their various capacities, the Attorney General and the county police and prosecutors, have the statutory duty to enforce the criminal laws of Hawaii, including the restrictions set forth in SB1230, as alleged above, and they do indeed enforce and threaten to enforce these laws by virtue of their authority under the laws of Hawaii. As such, each and every Defendant acts under color of law within the meaning of 42 U.S.C. § 1983;

55. The Second Amendment to the United States Constitution provides: “A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” The Supreme Court has squarely held that the Second Amendment bestows an individual right to keep and bear arms and that right may be exercised by all responsible, law-abiding Americans. *District of Columbia v. Heller*, 554 U.S. 570 (2008). The Second Amendment is applicable to the States as incorporated through the Due Process Clause of Fourteenth Amendment because the right to “keep and bear Arms” is a fundamental constitutional right essential to ordered liberty. *McDonald v. City of Chicago*, 561 U.S. 742 (2010). In *Bruen*, the Supreme Court held that the Second Amendment right to keep and bear arms fully extends to general carry of arms in public;

56. In *Bruen*, the Supreme Court articulated a framework for determining if firearms regulations are constitutional.

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It begins with the plain text. If the 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.

57. There is no "well-established, representative historical analogue" for the SB1230 bans on firearms or arms in and at –

(A) SB1230 HRS 134-A(a)(4) "Any... restaurant serving alcohol or intoxicating liquor as defined in section 281-1 for consumption on the premises, including adjacent parking areas." enacted pursuant to SB1230. This ban imposed by Section HRS 134-A(a)(4), as enacted by SB1230, and

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as specifically limited and specified herein, is facially unconstitutional under the Second Amendment in so far as it bans the possession, wear, carry, or transport of firearms by permit holders at these locations<sup>8</sup>. This ban imposed by Section HRS 134-A(a)(4), as enacted by SB1230, is also unconstitutional as applied to each Plaintiff;

(B) SB1230 HRS 134-A-(a)(9), “Any beach<sup>9</sup>, park, or adjacent parking area, including any state park,...county park,...under control, maintenance, and management of the State or county, ...”, as enacted by SB1230. This ban imposed by Section HRS 134-A(a)(9), as enacted by SB1230, and as specifically limited and specified herein, is facially unconstitutional under the Second Amendment in so far as it bans the possession, wear, carry, or transport of firearms by permit holders at these locations<sup>10</sup>. This ban, imposed by Section HRS 134-A(a)(9) is also unconstitutional as applied to each Plaintiff;

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8. The exceptions located at SB1230 HRS 134-A(b) do not apply and are not at issue.

9. There are no private beaches in Hawaii. See *Application of Ashford*, 50 Haw. 314 (1968). Private land cannot extend closer to the ocean than the high water mark. What this means with regard to beaches, for example, is that where there is only a public beach a licensed carrier could not walk along or on the beach- at all, ever. The beach is also county or state land, as there are no private beaches, implicating HRS 134-A(a)(9) and since there may be a county or state structure, such as a life guard station or a police substation or a park ranger station, for other State or county “activities”, along with a parking lot or “adjacent areas”, HRS 134-A(a)(1) is also implicated to the extent raised by this lawsuit.

10. The exceptions located at SB1230 HRS 134-A(b) do not apply and are not at issue.

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(C) SB1230 HRS 134-A(a)(12), “The premises of any bank or financial institution as defined in section 211D-1, including adjacent parking areas.” as enacted by SB1230. This ban imposed by Section HRS 134-A(a)(12), as enacted by SB1230 is facially unconstitutional under the Second Amendment in so far as it bans the possession, wear, carry, or transport of firearms by permit holders at these locations<sup>11</sup>. This ban, imposed by Section HRS 134-A(a)(12) is also unconstitutional as applied to each Plaintiff;

(D) SB1230 HRS 134-A(a)(1), “Any building or office owned, leased, or used by the State or a county, and adjacent grounds and parking areas, including any portion of a building or office used for..., or other activities of state or county government, *only to the extent that there may be a building or office owned or leased or used by the State or a county, and adjacent grounds and parking areas, including any portion of a building or office used for other activities of state or county government when this provision overlaps or is otherwise covered by any of the other challenged provisions herein*” as enacted by SB1230. This ban imposed by Section HRS 134-A(a)(1), as enacted by SB1230 is facially unconstitutional under the Second Amendment in so far as it bans the possession, wear, carry, or transport of firearms by permit holders at these locations<sup>12</sup>. This ban, imposed by Section HRS 134-A(a)(1) is also unconstitutional as applied to each Plaintiff;

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11. The exceptions located at SB1230 HRS 134-A(b) do not apply and are not at issue.

12. The exceptions located at SB1230 HRS 134-A(b) do not apply and are not at issue.

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58. There is no “well-established, representative historical analogue” for the SB1230 requirement, under the new HRS 134-E, that private property owners “opt-in” to allow the exercise of a fundamental constitutional right to keep and bear arms and that those exercising their Second Amendment rights may only enter, remain on or be on private property after having received express authorization, as described and required herein;

59. Plaintiff Jason Wolford, repeats and realleges the allegations of the preceding paragraphs as if set forth herein and also states as follows and as reflected in the attached declaration attached as Exhibit 4 (all facts and statements contained in the declaration are incorporated herein and henceforth as allegations in this paragraph in the complaint)-

A) Is a male, married, retired, United States citizen, resident of the state of Hawaii, resident of the county of Maui;

B) is a law abiding citizen;

C) Is not legally prohibited from acquiring, owning, possessing, carrying<sup>13</sup> or lawfully using arms including firearms under current Hawaii and federal law and also under the proposed SB1230 HRS enactments;

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13. Except as indicated here specifically with regard not to him, but to the places he intends to carry concealed with a permit and activities he intends to perform but for the enactment of SB1230.

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D) Owns several firearms, lawfully, and is familiar with firearms and has the following training: USCCA Instructor- Training Counselor. Concealed Carry and Home Defense Fundamentals, Countering the Mass Shooter Threat, Emergency First Aid, Defensive Shooting Fundamentals (DSF) level 1, NRA Instructor-Pistol; Rifle; Shotgun; Chief Range Safety Officer, SASS Range Safety Officer; SABRE Civilian Pepper Spray Instructor;

E) Has a concealed carry permit issued from the county of Maui in 2022, a redacted copy of which is appended to his declaration, and will renew that one and will obtain another concealed carry permit once SB1230's concealed carry permit laws go into effect in January 2024, and he has been, is and expects to be fully qualified to obtain another concealed carry permit and has not been, is not now, nor expected to be disqualified from owning, possessing or carrying arms nor from obtaining a renewed or new concealed carry permit in the state of Hawaii or elsewhere ;

F) Has in the past regularly frequented the following beaches listed below, and has, as a carry concealed license holder since 2022, while armed, and will in the future, own, possess, and carry a firearm with his concealed carry permit. He has every intention and desire to continue to carry his personal firearm in and at all these locations in the future, as he has in the past, and places like them, but he will decline to do so because of the credible fear of arrest and prosecution after July1, 2023, the effective date of SB1230. He intends to and will use his carry concealed permit to carry arms concealed in the locations referenced

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herein, but for the implementation and enactment of SB1230;

- i) Kahana Bay;
- ii) Kaanapali Beach;
- iii) Kapalua Beach;
- iv) Napili Bay
- v) Launiopoko
- vi) DT Fleming park- This park has a county or state government lifeguard building on the grounds;

G) Jason Wolford has in the past regularly frequented the following areas which are listed as a “park”, has in the past, as a carry concealed license holder since 2022, carried a concealed weapon with his permit in these areas listed herein, and fully intends to in the future, own, possess, and carry a firearm with his concealed carry permit in these locations. He has every intention and desire to continue to carry his personal firearm in and at all these locations, and locations like them, with a permit, in the future but he will decline to do so because of the credible fear of arrest and prosecution after July1, 2023, the effective date of SB1230. He intends to and will use his carry concealed permit to carry arms concealed in the locations referenced herein, but for the implementation and enactment of SB1230;

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- i) Keopoulani Park;
  - ii) Napili Park;
  - iii) Rice Park;
  - iv) Lahaina Recreational Center;
  - v) Maui Lani Regional Park
  - vi) DT Fleming beach “park” has a county or state government lifeguard building on the grounds;
- H) Jason Wolford has in the past regularly frequented the following areas which are, according to information and belief, restaurants that serves alcohol or intoxicating liquor as defined in section 281-1 for consumption on the premises, and he has, in the past carried a concealed arm with his permit in the locations referenced herein, and he intends to, as a carry concealed license holder since 2022, in the future, own, possess, and carry a firearm with his concealed carry permit in these locations and locations like them. He has every intention and desire to continue to carry his personal firearm in and at all these locations, and locations like them, in the future but he will decline to do so because of the credible fear of arrest and prosecution after July1, 2023, the effective date of SB1230. He intends to and will use his carry concealed permit to carry arms concealed in the locations referenced herein, but for the implementation and enactment of SB1230;
- i) Monkey Pod;

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- ii) Hula Grill;
- iii) Down the Hatch;
- iv) Tiffanys;
- v) Tante's;
- vi) Ruth Chris;
- vii) Miko's

(I) Jason Wolford has in the past regularly frequented the following areas which are, according to information and belief, banks or financial institutions as defined in section 211D-1, and has in the past carried a concealed arm with his permit and intends to, as a carry concealed license holder since 2022, in the future, own, possess, and carry a firearm with his concealed carry permit in these locations and locations like them. He has every intention and desire to continue to carry his personal firearm and permit in and at all these locations, and locations like them, in the future but he will decline to do so because of the credible fear of arrest and prosecution after July1, 2023, the effective date of SB1230. He intends to and will use his carry concealed permit to carry arms concealed in the locations referenced herein, but for the implementation and enactment of SB1230;

- i) First Hawaiian Bank (including specifically, but not limited to the branches at Kahana, Lahaina and Kahului);

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ii) Bank of Hawaii (including specifically, but not limited to the branches at Kahana, Lahaina and Kahului);

J) Jason Wolford has in the past regularly frequented the following areas which are, according to information and belief, all other locations considered private property, not covered otherwise by HRS 134-A(a) but specifically covered under HRS 134-E that requires private property owners to “opt-in” and post signage allowing the exercise of the Second Amendment right to carry an arm for self-defense or in case of confrontation, and he has carried a concealed arm with a permit in the past and intends to, as a carry concealed license holder since 2022, in the future, own, possess, and carry a firearm with his concealed carry permit in these locations and similar locations. He has every intention and desire to continue to carry his personal firearm and permit in and at all these locations, and locations like them, in the future but he will decline to do so because of the credible fear of arrest and prosecution after July1, 2023, the effective date of SB1230. He intends to and will use his carry concealed permit to carry arms concealed in the locations referenced herein, but for the implementation and enactment of SB1230;

i) Ace Hardware, which shares a parking lot with Maui County DMV, see Exhibit 5;

ii) Maui mall;

K) Jason Wolford has in the past regularly frequented adjacent properties and parking lots of all of the above locations with a firearm concealed with his concealed

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carry permit and fully intends to do so again, but for the enactment of SB1230. Additionally, Jason Wolford has in the past regularly frequented adjacent properties and parking lots while not going to any of the above locations, such as a beach or park or bank or restaurant, but the other location shares an adjacent property or parking lot, and he has carried a concealed weapon with his concealed carry permit and he fully intends to do so again the future, but for the enactment of SB1230. Those locations include the gym The Club Maui Kahana Location which shares a parking lot with two banks.

60. Plaintiff Alison Wolford, repeats and realleges the allegations of the preceding paragraphs as if set forth herein and also states as follows and as reflected in the attached declaration attached as Exhibit 6 (all facts and statements contained in the declaration are incorporated herein and henceforth as allegations in this paragraph in the complaint)-

A) Is a female, married, United States citizen, resident of the state of Hawaii, resident of the county of Maui who works for the Maui Memorial Medical center;

B) is a law abiding citizen;

C) Is not legally prohibited from acquiring, owning, possessing, carrying<sup>14</sup> or lawfully using arms including

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14. Except as indicated here specifically with regard not to her, but to the places and activities she intends to perform but for the enactment of SB1230.

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firearms under current Hawaii and federal law and also under the proposed SB1230 HRS enactments;

D) Owns several firearms, lawfully, and is familiar with firearms and has the following training: NRA Instructor-Pistol; Rifle; Shotgun; CCW; Chief Range Safety Officer NRA Refuse to be a Victim; NRA Range Development USCCA Instructor-Concealed Carry Home Defense; Women's Firearms Training Counselor USCCA RSO SASS RSO;

E) Has a concealed carry permit issued from the county of Maui in 2022, a redacted copy of which is appended to her declaration, and will renew that one and will obtain another concealed carry permit once SB1230's concealed carry permit laws go into effect in January 2024, and she has been, is and expects to be fully qualified to obtain another concealed carry permit and has not been, is not now, nor expected to be disqualified from owning, possessing or carrying arms nor from obtaining a renewed or new concealed carry permit in the state of Hawaii or elsewhere ;

F) Alison Wolford has in the past regularly frequented the following beaches listed below, and has, as a carry concealed license holder since 2022, carried while armed and with her permit, and will in the future, own, possess, and carry a firearm with her concealed carry permit. She has every intention and desire to continue to carry her personal firearm in and at all these locations in the future, and places like them, but she will decline to do so because of the credible fear of arrest and prosecution after July 1,

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2023, the effective date of SB1230. She intends to and will use her carry concealed permit to carry arms concealed in the locations referenced herein, but for the implementation and enactment of SB1230;

- i) Kahana Bay;
- ii) Kaanapali Beach;
- iii) Airport Beach;
- iv) Kapalua Beach;
- v) Napili Bay;
- vi) Launiopoko;
- vii) DT Flemings beach park, which also has a county or state lifeguard building on the grounds;

G) Alison Wolford has in the past regularly frequented the following areas which are listed as a “park”, has in the past, as a carry concealed license holder since 2022, carried a concealed weapon with her permit in these areas listed herein, and fully intends to in the future, own, possess, and carry a firearm with his concealed carry permit in these locations. She has every intention and desire to continue to carry her personal firearm concealed and with a permit in and at all these locations, and locations like them, in the future but she will decline to do so because of the credible fear of arrest and prosecution after July1, 2023, the effective date of SB1230. She intends

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to and will use his carry concealed permit to carry arms concealed in the locations referenced herein, but for the implementation and enactment of SB1230;

- i) Keopoulani Park;
- ii) Napili Park;
- iii) Rice Park;
- iv) Lahaina Recreational Center;
- v) DT Fleming (Beach park)
- vi) Maui Lani Regional Park
- vii) DT Fleming has a county or state government lifeguard building on the grounds;

H) Alison Welford has in the past regularly frequented the following areas which are, according to information and belief, restaurants that serves alcohol or intoxicating liquor as defined in section 281-1 for consumption on the premises, and she has, in the past carried a concealed arm with her permit in the locations referenced herein, and she intends to, as a carry concealed license holder since 2022, in the future, own, possess, and carry a firearm with her concealed carry permit in these locations and locations like them. She has every intention and desire to continue to carry her personal firearm in and at all these locations, and locations like them, in the future but she will decline to do so because of the credible fear of arrest and prosecution

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after July1, 2023, the effective date of SB1230. She intends to and will use his carry concealed permit to carry arms concealed in the locations referenced herein, but for the implementation and enactment of SB1230;

- i) Monkey Pod;
- ii) Hula Grill;
- iii) Down the Hatch;
- iv) Tiffanys;
- v) Tante's;
- vi) Ruth Chris;
- vii) Miko's

I) Alison Wolford has in the past regularly frequented the following areas which are, according to information and belief, banks or financial institutions as defined in section 211D-1, and has in the past carried a concealed arm with her permit and intends to, as a carry concealed license holder since 2022, in the future, own, possess, and carry a firearm with her concealed carry permit in these locations and locations like them. She has every intention and desire to continue to carry her personal firearm in and at all these locations, and locations like them, in the future but she will decline to do so because of the credible fear of arrest and prosecution after July1, 2023, the

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effective date of SB1230. Se intends to and will use his carry concealed permit to carry arms concealed in the locations referenced herein, but for the implementation and enactment of SB1230;

i) First Hawaiian Bank (including specifically, but not limited to the branches at Kahana, Lahaina and Kahului);

ii) Bank of Hawaii (including specifically, but not limited to the branches at Kahana, Lahaina and Kahului);

iii) Maui Federal Credit Union (including specifically but not limited to the branches at Lahaina, Kahului, and Wailuku);

J) Alison Wolford has in the past regularly frequented the following areas which are, according to information and belief, all other locations considered private property, not covered otherwise by HRS 134-A(a) but specifically covered under HRS 134-E that requires private property owners to “opt-in” and post signage allowing the exercise of the Second Amendment right to carry an arm for self-defense or in case of confrontation, and she has carried a concealed arm with a permit in the past and intends to, as a carry concealed license holder since 2022, in the future, own, possess, and carry a firearm with her concealed carry permit in these locations and similar locations. She has every intention and desire to continue to carry her personal firearm in and at all these locations, and locations like them, in the future but she will decline to do so because of the credible fear of arrest and prosecution

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after July 1, 2023, the effective date of SB1230. She intends to and will use his carry concealed permit to carry arms concealed in the locations referenced herein, but for the implementation and enactment of SB1230;

i) Ross, See Exhibit 5, this location shares a parking lot with Maui DMV, and also see <https://www.mauicounty.gov/2125/DMV-Wait-Times> last accessed on June 21, 2023;

ii) Safeway

iii) Costco

61. Plaintiff Atom Kasprzycki, as reflected in the attached declaration attached as Exhibit 7 (all facts and statements contained in the declaration are incorporated herein and henceforth as allegations in this paragraph in the complaint)-

A) Is a male, married, self-employed, United States citizen, resident of the state of Hawaii, resident of the county of Maui;

B) is a law abiding citizen and member of HIFICO (see Exhibit 8);

C) Is not legally prohibited from acquiring, owning, possessing, carrying<sup>15</sup> or lawfully using arms including

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15. Except as indicated here specifically with regard not to him, but to the places and activities he intends to perform but for the enactment of SB1230.

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firearms under current Hawaii and federal law and also under the proposed SB1230 HRS enactments;

D) Owns several firearms, lawfully, and is familiar with firearms and has the following training: NRA Basic Pistol Safety Course Certificate of Completion, Concealed Carry Handgun Course, North Carolina CCW course, Nebraska Hunter's Education;

E) Has a concealed carry permit issued from the county of Maui in 2022, a redacted copy of which is appended to his declaration, and will renew that one and will obtain another concealed carry permit once SB1230's concealed carry permit laws go into effect in January 2024, and he has been, is and expects to be fully qualified to obtain another concealed carry permit and has not been, is not now, nor expected to be disqualified from owning, possessing or carrying arms nor from obtaining a renewed or new concealed carry permit in the state of Hawaii or elsewhere ;

F) Has in the past regularly frequented the following beaches listed below, and has, as a carry concealed license holder since 2022, carried a concealed weapon and permit, and will in the future, own, possess, and carry a firearm with his concealed carry permit. He has every intention and desire to continue to carry his personal firearm in and at all these locations in the future, and places like them, but he will decline to do so because of the credible fear of arrest and prosecution after July1, 2023, the effective date of SB1230. He intends to and will use his carry concealed permit to carry arms concealed in the locations referenced herein, but for the implementation and enactment of SB 1230;

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- i) Kaopala Beach;
- ii) Kaanapali Beach;
- iii) Launipoko Beach;
- iv) DT Fleming beach park- This beach and park has a state or county lifeguard building on the grounds;

G) Atom Kasprzycki has in the past regularly frequented the following areas which are listed as a “park”, has in the past, as a carry concealed license holder since 2022, carried concealed with his permit in these areas listed herein, and fully intends to in the future, own, possess, and carry a firearm with his concealed carry permit in these locations. He has every intention and desire to continue to carry his personal firearm in and at all these locations, and locations like them, in the future but he will decline to do so because of the credible fear of arrest and prosecution after July1, 2023, the effective date of SB1230. But for H.R.S. §134-A (9) he would carry in all these locations;

- i) Laniupoko Park;
- ii) Lahaina Baynan Court Park
- iii) Lahaina Aquatic Center;
- iv) DT Fleming (Beach park)- This beach and park has a county or state lifeguard building on the grounds;

H) Atom Kasprzycki has in the past regularly frequented the following areas which are, according to information and belief, restaurants that serves alcohol or intoxicating

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liquor as defined in section 281-1 for consumption on the premises, and he has, in the past carried a concealed arm with his permit in the locations referenced herein, and he intends to, as a carry concealed license holder since 2022, in the future, own, possess, and carry a firearm with his concealed carry permit in these locations and locations like them. He intends to and will use his carry concealed permit to carry arms concealed in the locations referenced herein, but for the implementation and enactment of SB1230. He has every intention and desire to continue to carry his personal firearm in and at all these locations, and locations like them, in the future but he will decline to do so because of the credible fear of arrest and prosecution after July1, 2023, the effective date of SB1230. But for H.R.S. §134-A (4) he would carry in all these locations;

i) Sansei;

ii) Alaloa Lounge;

iii) Maui Brewing company (This place shares a parking lot with the a medical facility and other private establishments)

I) Atom Kasprzycki has in the past regularly frequented the following areas which are, according to information and belief, banks or financial institutions as defined in section 211D-1, and has in the past carried a concealed arm with his permit and intends to, as a carry concealed license holder since 2022, in the future, own, possess, and carry a firearm with his concealed carry permit in these locations and locations like them. He intends to and will use his carry concealed permit to carry arms concealed in

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the locations referenced herein, but for the implementation and enactment of SB1230. He has every intention and desire to continue to carry his personal firearm in and at all these locations, and locations like them, in the future but he will decline to do so because of the credible fear of arrest and prosecution after July1, 2023, the effective date of SB1230;

i) First Hawaiian Bank (including specifically, but not limited to the branches at Lahaina, Kahana, Kahului and Makawao);

ii) Bank of Hawaii (including specifically, but not limited to the branch at Kahana);

J) Atom Kasprzycki has in the past regularly frequented the following areas which are, according to information and belief, all other locations considered private property, not covered otherwise by HRS 134-A(a) but specifically covered under HRS 134-E that requires private property owners to “opt-in” and post signage allowing the exercise of the Second Amendment right to carry an arm for self-defense or in case of confrontation, and he has carried a concealed arm with a permit in the past and intends to, as a carry concealed license holder since 2022, in the future, own, possess, and carry a firearm with his concealed carry permit in these locations and similar locations. He intends to and will use his carry concealed permit to carry arms concealed in the locations referenced herein, but for the implementation and enactment of SB1230. He has every intention and desire to continue to carry his personal firearm in and at all these locations, and locations like them, in the future but he will decline to do so because of the credible fear of arrest and prosecution after July1,

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2023, the effective date of SB1230. But for HRS 134-E he would carry in all these locations;

- i) The Club Maui Kahana gym
- ii) Kasprzycki's office, Kasprzycki Designs Inc, shares a parking lot with a bank, Bank of Hawaii;

**VII**

**COUNT II**

**First Amendment, Fourteenth Amendment,  
Compelled Speech**

62. Plaintiff Kasprzycki owns and operates his own business, Kasprzycki Designs Inc;

63. Kasprzycki owns the office space;

64. Kasprzycki has many clients and some do not support the exercise of Second Amendment rights through the carrying of concealed weapons with a permit and some do support the exercise of Second Amendment rights through the carrying of concealed weapons with a permit;

65. Kasprzycki is an architect by trade and does not want to involve his business and or his business property in issues related to the Second Amendment and or the First Amendment and he does not wish to be forced to express support or disapproval of the carrying of concealed arms with a permit and he does not wish to be forced to post signage, or to otherwise be forced to communicate with clients, to expressly consent to allow or disallow the

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carrying of concealed arms with a permit. Once H.R.S. §134-E goes into effect, Kasprzycki will not put up a sign or otherwise give prior written or verbal consent to carry a firearm. But for H.R.S. §134-E Kasprzycki would allow people to carry firearms in his business.

66. The First Amendment prohibits the State from telling people what they must say. *See Agency for Int'l Dev. v. All. for Open Soc'y Int'l, Inc.*, 570 U.S. 205, 213 (2013);

66. Kasprzycki's business property and office is open to the public for business purposes;

67. SB1230's HRS 134-E compels the speech of private property owners and lessees. It requires property owners and lessees to espouse a belief one way or the other on the carriage of firearms outside the home by requiring them to expressly consent or post a sign and therefore it is compelled speech and unconstitutional under the First and Fourteenth amendment;

**VIII****(DECLARATORY JUDGMENT)**

68. Plaintiffs repeat and reallege the allegations of the preceding paragraphs as if set forth herein;

69. The Declaratory Judgment Act provides: "In a case of actual controversy within its jurisdiction, any court of the United States may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought." 28 U.S.C. 2201(a);

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70. Absent a declaratory judgment, there is a substantial likelihood that Plaintiffs will suffer irreparable injury in the future;
71. There is an actual controversy between the parties of sufficient immediacy and reality to warrant issuance of a declaratory judgment;
72. This Court possesses an independent basis for jurisdiction over the parties;
73. Plaintiffs seek a judgment declaring that Defendants' policies/laws, including specifically those portions of SB1230 challenged herein, which deny Plaintiffs their Second Amendment rights to carry arms in case of confrontation in the locations specified herein are unconstitutional under the Second Amendment;
74. Alternatively, a declaration that those specified aspects of SB1230 herein are unconstitutional as applied to each Plaintiff;
75. A declaration and judgment that those portions of SB1230 specified herein are unconstitutional as violative of the Second Amendment;
76. A declaration and judgment that, with regard to Plaintiff Kasprzycki, SB1230's enactment of HRS 134-E, is facially unconstitutional under the First Amendment and Fourteenth amendment;
77. Alternatively, a declaration and judgment that, with regard to Plaintiff Kasprzycki, SB1230's enactment

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of HRS 134-E, is unconstitutional under the First Amendment and Fourteenth amendment as applied to him;

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs request that judgment be entered in their favor and against Defendants as follows:

1. An order preliminarily and permanently enjoining Defendants, their officers, agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of the injunction, from enforcing Defendants' policies complained about above;
2. Plaintiffs request this Court, enjoin the above challenged SB1230 provisions and any other relevant provision of SB1230 and or Hawaii law, both facially and as applied to Plaintiffs;
3. Declaratory relief that the complained of SB1230 provisions and any related HRS provisions are unconstitutional both facially and as applied to Plaintiffs.
4. Awarding Plaintiffs' attorney fees and costs pursuant to 42 U.S.C. §1988;
5. Nominal Damages.
6. Compensatory Damages

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7. Such other relief consistent with the injunction as appropriate; and
8. Such other further relief as the Court deems just and appropriate.

Dated: June 23, 2023.

Respectfully submitted,

/s/ Kevin O'Grady

Kevin Gerard O'Grady

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/s/ Alan Beck

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Alan.alexander.beck@gmail.com

Counsel for Plaintiffs

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**VERIFICATION**

I, Jason Wolford, declare as follows:

1. I am the Plaintiff in the present case and a citizen of the United States of America.
2. I have personal knowledge of myself, my activities, and my intentions, including those set out in the forgoing *Verified Complaint for Declaratory and Injunctive Relief*, and if called on to testify, I would competently testify as to the matters stated herein.
3. I verify under penalty of perjury under the laws of the United States of America that the factual statements in this *Verified Complaint for Declaratory and Injunctive Relief* concerning myself, my activities and my intentions are true and correct.

Executed on June 22, 2023

/s/ Jason Wolford  
JASON WOLFORD

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**VERIFICATION**

I, Alison Wolford, declare as follows:

1. I am the Plaintiff in the present case and a citizen of the United States of America.
2. I have personal knowledge of myself, my activities, and my intentions, including those set out in the forgoing *Verified Complaint for Declaratory and Injunctive Relief*; and if called on to testify, I would competently testify as to the matters stated herein.
3. I verify under penalty of perjury under the laws of the United States of America that the factual statements in this *Verified Complaint for Declaratory and Injunctive Relief* concerning myself, my activities and my intentions are true and correct.

Executed on June 22, 2023

/s/ Alison Wolford  
ALISON WOLFORD

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**VERIFICATION**

I, Atom Kasprzycki, declare as follows:

1. I am the Plaintiff in the present case and a citizen of the United States of America.
2. I have personal knowledge of myself, my activities, and my intentions, including those set out in the forgoing *Verified Complaint for Declaratory and Injunctive Relief*, and if called on to testify, I would competently testify as to the matters stated herein.
3. I verify under penalty of perjury under the laws of the United States of America that the factual statements in this *Verified Complaint for Declaratory and Injunctive Relief* concerning myself, my activities and my intentions are true and correct.

Executed on June 22, 2023

/s/ Atom Kasprzycki  
ATOM KASPRZYCKI

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**VERIFICATION**

I, Andrew Namiki Roberts, as Director of Hawaii Firearms Coalition, and on behalf of HIFICO members statewide, declare as follows:

1. I am the Director of the Hawaii Firearms Coalition as an institutional Plaintiff in the present case and a nonresident alien.
2. I have personal knowledge of myself, my activities, and my intentions, as well as the activities of HIFICO and its members, including those set out in the forgoing *Verified Complaint for Declaratory and Injunctive Relief*, and if called on to testify, I would competently testify as to the matters stated herein.
3. I verify under penalty of perjury under the laws of the United States of America that the factual statements in this *Verified Complaint for Declaratory and Injunctive Relief* concerning myself, my activities and my intentions, and the activities of HIFICO and its members are true and correct.

Executed on June 22, 2023

/s/ Andrew Namiki Roberts  
ANDREW NAMIKI ROBERTS

**COMPLAINT EXHIBIT 1 —  
SENATE BILL NO. 1230**

THE SENATE  
THIRTY-SECOND LEGISLATURE, 2023  
STATE OF HAWAII

S.B. NO. 1230  
S.D. 2  
H.D. 1  
C.D. 1

**A BILL FOR AN ACT**

RELATING TO FIREARMS.

**BE IT ENACTED BY THE LEGISLATURE OF  
THE STATE OF HAWAII:**

SECTION 1. The legislature finds that there are compelling interests in protecting public health, safety, and welfare from the serious hazards associated with firearms and gun violence. Although the United States Supreme Court has held that the Second Amendment provides for an individual right to keep and bear arms for lawful purposes, the Second Amendment is not “a regulatory straightjacket”. *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S.Ct. 2111, 2133 (2022). States retain authority to enact “a ‘variety’ of gun regulations”, *id.* at 2162 (Kavanaugh, J., concurring), such as prohibitions against the carrying of firearms in sensitive locations and laws and regulations designed to ensure that those who

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carry firearms are “law-abiding, responsible Citizens”, *id.* at 2131, 2156 (internal citation omitted).

The purpose of this Act is to clarify, revise, and update Hawaii’s firearms laws to mitigate the serious-hazards to public health, safety, and welfare associated with firearms and gun violence, while respecting and protecting the lawful exercise of individual rights. To accomplish this purpose, this Act amends and enacts requirements and processes for obtaining a license to carry a firearm, updates criteria governing when firearm ownership, possession, or control is prohibited, defines locations and premises within the State where carrying or possessing a firearm is prohibited, prohibits leaving an unsecured firearm in a vehicle unattended, and enacts, amends, and clarifies other provisions relating to firearms.

In prohibiting carrying or possessing firearms in certain locations and premises within the State, this Act is intended to protect areas in which carrying or possessing dangerous weapons has traditionally been restricted, such as schools and other places frequented by children, government buildings, polling places, and other analogous locations.

This Act also respects the right of private individuals and entities to choose for themselves whether to allow or restrict the carrying of firearms on their property by providing that firearms shall not be carried on private property of another person without the express authorization of the owner, lessee, operator, or manager of the property. Recognizing the risks to public health,

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safety, and welfare associated With firearms and gun violence, and based on the legislature’s assessment of public sentiment and broadly shared preferences within the State, this Act establishes a default rule with respect to carrying firearms on private property of another person that provides for private entities to “opt-in” to authorize the public carry of firearms on their property.

This Act also adjusts certain regulatory fees relating to firearms. These adjustments are warranted because prior fee amounts were established by statute decades ago and have not been adjusted to reflect inflation and increased costs associated with background checks and investigations.

SECTION 2. Chapter 134, Hawaii Revised Statutes, is amended by adding seven new sections to part I to be appropriately designated and to read as follows:

**“§134-A Carrying or possessing a firearm in certain locations and premises prohibited; penalty. (a) A person with a license issued under section 134-9, or authorized to carry a firearm in accordance with title 18 United States Code section 926B or 926C, shall not intentionally, knowingly, or recklessly carry or possess a loaded or unloaded firearm, whether the firearm is operable or not, and whether the firearm is concealed or unconcealed, while in any of the following locations and premises within the State:**

- (1) Any building or office owned, leased, or used by the State or a county, and adjacent grounds and parking areas, including any portion of a

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building or office used for court proceedings, legislative business, contested case hearings, agency rulemaking, or other activities of state or county government;

- (2) Any public or private hospital, mental health facility, nursing home, clinic, medical office, urgent care facility, or other place at which medical or health services are customarily provided, including adjacent parking areas;
- (3) Any adult or juvenile detention or correctional facility, prison, or jail, including adjacent parking areas;
- (4) Any bar or restaurant serving alcohol or intoxicating liquor as defined in section 281-1 for consumption on the premises, including adjacent parking areas;
- (5) Any stadium, movie theater, or concert hall, or any place at which a professional, collegiate, high school, amateur, or student sporting event is being held, including adjacent parking areas;
- (6) All public library property, including buildings, facilities, meeting rooms, spaces used for community programming, adjacent grounds, and parking areas;
- (7) The campus or premises of any public or private community college, college, or university, and adjacent parking areas, including buildings,

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classrooms, laboratories, research facilities, artistic venues, and athletic fields or venues;

- (8) The campus or premises of any public school, charter school, private school, preschool, summer camp, or child care facility as defined in section 346-151, including adjacent parking areas, but not including:
  - (A) A private residence at which education is provided for children who are all related to one another by blood, marriage, or adoption; or
  - (B) A dwelling when not used as a child care facility;
- (9) Any beach, playground, park, or adjacent parking area, including any state park, state monument, county park, tennis court, golf course, swimming pool, or other recreation area or facility under control, maintenance, and management of the State or a county, but not including an authorized target range or shooting complex;
- (10) Any shelter, residential, or programmatic facility or adjacent parking area operated by a government entity or charitable organization serving unhoused persons, victims of domestic violence, or children, including children involved in the juvenile justice system;

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- (11) Any voter service center as defined in section 11-1 or other polling place, including adjacent parking areas;
- (12) The premises of any bank or financial institution as defined in section 211D-1, including adjacent parking areas;
- (13) Any place, facility, or vehicle used for public transportation or public transit, and adjacent parking areas, including buses, paratransit vans, bus shelters and terminals (but not including bus stops located on public sidewalks), trains, rail stations, and airports;
- (14) Any amusement park, aquarium, carnival, circus, fair, museum, water park, or zoo, including adjacent parking areas; or
- (15) Any public gathering, public assembly, or special event conducted on property open to the public, including any demonstration, march, rally, vigil, protest, picketing, or other public assembly, for which a permit is obtained from the federal government, the State, or a county, and the sidewalk or street immediately adjacent to the public gathering, public assembly, or special event; provided that there are signs clearly and conspicuously posted at visible places along the perimeter of the public gathering, public assembly, or special event.

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(b) This section shall not apply to a person in an exempt category identified in section 134-11(a). It shall be an affirmative defense to any prosecution under this section that a person is:

- (1) Carrying or possessing an unloaded firearm in a police station in accordance with section 134-23(a)(6), 134-24(a)(6), or 134-25(a)(6);
- (2) Carrying or possessing an unloaded firearm at an organized, scheduled firearms show or exhibit;
- (3) Lawfully carrying or possessing a firearm for hunting in compliance with section 134-5;
- (4) A private security officer expressly authorized to carry or possess a weapon in a location or premises listed in subsection (a) by the owner, lessee, operator, or manager of the location or premises; provided that the private security officer is acting within the private security officer's scope of employment;
- (5) Carrying or possessing an unloaded firearm in a courthouse for evidentiary purposes with the prior express authorization of the court;
- (6) Lawfully present within the person's own home, other than a college or university dormitory or shelter or residential facility serving unhoused persons or victims of domestic violence;

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- (7) Carrying a firearm pursuant to a license issued under section 134-9 or in accordance with title 18 United States Code section 926B or 926C in the immediate area surrounding the person's vehicle within a parking area for the limited purpose of storing or retrieving the firearm;
- (8) Possessing a firearm in an airport or any place, facility, or vehicle used for public transportation or public transit; provided that the firearm is unloaded and in a locked hard-sided container for the purpose of transporting the firearm;
- (9) Walking through a public gathering, public assembly, or special event if necessary to access the person's residence, place of business, or vehicle; provided that the person does not loiter or remain longer than necessary to complete their travel or business; or
- (10) Carrying a concealed firearm in accordance with title 18 United States Code section 926B or 926C in a location or premises within the State that is not a State or county property, installation, building, base, or park, and not a location or premises where a private person or entity has prohibited or restricted the possession of concealed firearms on their property.

(c) The presence of a person in any location or premises listed in subsection (a) shall be prima facie evidence that the person knew it was a location or premises listed in subsection (a).

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(d) Where only a portion of a building or office is owned, leased, or used by the State or a county, this section shall not apply to the portion of the building or office that is not owned, leased, or used by the State or a county, unless carrying or possessing a firearm within that portion is otherwise prohibited by this section.

(e) As used in this section, “private security officer” means any person employed and duly licensed to engage in the private detective or guard business pursuant to chapter 463.

(f) Any person who violates this section shall be guilty of a misdemeanor.

(g) If any ordinance of any county of the State establishing locations where the carrying of firearms is prohibited is inconsistent with this section or with section 134-E, the ordinance shall be void to the extent of the inconsistency.

**§134-B Duty to maintain possession of license while carrying; a firearm; duty to disclose; penalty.** (a) A person carrying a firearm pursuant to a license issued under section 134-9 or in accordance with title 18 United States Code section 926B or 926C shall have in the person’s immediate possession:

- (1) The license issued under section 134-9 or documentation regarding the person’s qualifications under title 18 United States Code section 926B or 926C;

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- (2) Government-issued photo identification; and
- (3) Except with respect to firearms that are a part of the official equipment of any federal agency as provided under section 134-11(b), documentary evidence that the firearm being carried is registered under this chapter,

and shall, upon request from a law enforcement officer, present government-issued photo identification and the license or credentials and evidence of registration.

(b) When a person carrying a firearm, including a person carrying a firearm pursuant to a license issued under section 134-9 or in accordance with title 18 United States Code section 926B or 926C, is stopped by a law enforcement officer or is a driver or passenger in a vehicle stopped by a law enforcement officer, the person carrying a firearm shall immediately disclose to the law enforcement officer that the person is carrying a firearm, and shall, upon request:

- (1) Identify the specific location of the firearm; and
- (2) Present to the law enforcement officer a license to carry a firearm issued under section 134-9 or documentation regarding the person's qualifications under title 18 United States Code section 926B or 926C.

(c) Any person who violates this section shall be guilty of a petty misdemeanor.

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**§134-C Leaving unsecured firearm in vehicle unattended; penalty.** (a) No person shall intentionally, knowingly, or recklessly store or otherwise leave a loaded or unloaded firearm out of the person's immediate possession or control inside a vehicle without first securely locking the firearm in a safe storage depository that is out of sight from outside of the vehicle.

(b) For purposes of this section, "safe storage depository" means a safe or other secure impact- and tamper-resistant container that, when locked, is incapable of being opened without a key, keypad, combination, or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to or possession of the firearm contained therein. A vehicle's trunk or glove box alone, even if locked, is not a safe storage depository.

(c) This section shall not apply to a person in an exempt category identified in section 134-11(a).

(d) Any person who violates subsection (a) shall be guilty of a petty misdemeanor.

**§134-D Unlawful conduct while carrying a firearm; penalty.** (a) A person carrying a firearm shall not:

- (1) Consume alcohol or intoxicating liquor;
- (2) Consume a controlled substance;

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(3) Be under the influence of alcohol or intoxicating liquor; or

(4) Be under the influence of a controlled substance.

(b) As used in this section:

“Alcohol” and “intoxicating liquor” shall have the same meaning as in section 281-1.

“Controlled substance” means a drug, substance, or immediate precursor in schedules I through III of part II of Chapter 329.

(c) Any person who violates this section shall be guilty of a misdemeanor; provided that any person who violates this section by consuming or being under the influence of alcohol or an intoxicating liquor shall be guilty of a petty misdemeanor.

**§134-E Carrying or possessing a firearm on private property of another person without authorization; penalty.** (a) A person carrying a firearm pursuant to a license issued under section 134-9 shall not intentionally, knowingly, or recklessly enter or remain on private property of another person while carrying a loaded or unloaded firearm, whether the firearm is operable or not, and whether the firearm is concealed or unconcealed, unless the person has been given express authorization to carry a firearm on the property by the owner, lessee, operator, or manager of the property.

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(b) For purposes of this section, express authorization to carry or possess a firearm on private property shall be signified by:

- (1) Unambiguous written or verbal authorization; or
- (2) The posting of clear and conspicuous signage at the entrance of the building or on the premises, by the owner, lessee, operator, or manager of the property, or agent thereof, indicating that carrying or possessing a firearm is authorized.

(c) For purposes of this section:

“Private entity” means any homeowners’ association, community association, planned community association, condominium association, cooperative, or any other nongovernmental entity with covenants, bylaws, or administrative rules, regulations, or provisions governing the use of private property.

“Private property” does not include property that is owned or leased by any governmental entity.

“Private property of another person” means residential, commercial, industrial, agricultural, institutional, or undeveloped property that is privately owned or leased, unless the person carrying a firearm is an owner, lessee, operator, or manager of the property, including an ownership interest in a common element or limited common element of the property; provided that nothing in

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this chapter shall be construed to limit the enforceability of a provision in any private rental agreement restricting a tenant's possession or use of firearms, the enforceability of a restrictive covenant restricting the possession or use of firearms, or the authority of any private entity to restrict the possession or use of firearms on private property.

(d) This section shall not apply to a person in an exempt category identified in section 134-11(a).

(e) Any person who violates this section shall be guilty of a misdemeanor.”

**§134-F Annual report on licenses to carry.** (a) No later than April 1, 2024, and April 1 of each year thereafter, the department of the attorney general shall publish a report on its publicly available website that includes, if available:

- (1) The number of licenses to carry applied for, issued, revoked, and denied, further categorized by the age, gender, race, and county of residence of each applicant or licensee;
- (2) The specific reasons for each revocation and denial;
- (3) Analysis of denials based on applicants' failure to meet the standards of section 134-9(d), and recommendations to remedy any disparities in denial rates by age, gender, or race;

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(4) The number of appeals and appeals granted; and

(5) The number of violations of section 134-A.

(b) No later than February 1 of each year, the chief of police of each county shall supply the department of the attorney general with the data the department requires to complete the report under subsection (a).

**§134-G Failure to conceal a firearm by a concealed carry licensee; penalty.** (a) A person commits the offense of failure to conceal a firearm by a concealed carry licensee if a person is carrying a firearm pursuant to a license issued under section 134-9(a) and intentionally, knowingly, or recklessly causes alarm to another person by failing to conceal the firearm, even briefly, whether the firearm was loaded or not, and whether operable or not.

(b) It shall be a defense to any prosecution under this section if the person:

(1) Was within the person's private residence; or

(2) Caused the firearm to be unconcealed for the purpose of self-defense in accordance with section 703-304 or defense of another person in accordance with section 703-305.

(c) Failure to conceal a firearm by a concealed carry licensee shall be a petty misdemeanor."

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SECTION 3. Section 134-1, Hawaii Revised Statutes, is amended as follows:

1. By adding three new definitions to be appropriately inserted and to read:

““Concealed” means, in relation to a firearm, that the firearm is entirely hidden from view of the public and not discernible by ordinary observation, in a manner that a reasonable person without law enforcement training would be unable to detect the presence of the firearm.

“Criminal offense relating to firearms” means:

- (1) Any criminal offense under this chapter punishable as a misdemeanor;
- (2) Criminally negligent storage of a firearm under section 707-714.5; and
- (3) Any other criminal offense punishable as a misdemeanor under federal or state law or the law of another state, a United States territory, or the District of Columbia that has as an element of the offense the use, attempted use, threatened use, or possession of a firearm.

“Unconcealed” means not concealed.”

2. By amending the definition of “crime of violence” to read:

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““Crime of violence” means [any]:

- (1) Any offense[, as defined in title 37] under federal or state law or the law of another state, a United States territory, or the District of Columbia that [involves injury] has as an element of the offense the:
  - (A) Injury or threat of injury to the person of another[, including sexual]; or
  - (B) Use, attempted use, or threatened use of physical force against the person or property of another or the creation of a substantial risk of causing bodily injury;
- (2) Reckless endangering in the second degree under section 707-714;
- (3) Terroristic threatening in the second degree under section 707-717;
- (4) Sexual assault in the fourth degree under section 707-733 [and harassment];
- (5) Endangering the welfare of a minor in the second degree under section 709-904;
- (6) Endangering the welfare of an incompetent person under section 709-905;
- (7) Harassment under section 711-1106(1)(a);

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- (8) Harassment by stalking under section 711-1106.5[.];
- (9) Criminal solicitation under section 705-510; provided that the solicitation was for a crime described or listed in paragraphs (1) to (8);
- (10) Criminal conspiracy under section 705-520; provided that the conspiracy was for a crime described or listed in paragraphs (1) to (8); and
- (11) Offenses under federal law, or the law of another state, a United States territory, or the District of Columbia, that are comparable to the offenses described or listed in paragraphs (1) to (10).”

SECTION 4. Section 134-2, Hawaii Revised Statutes, is amended to read as follows:

**“§134-2 Permits to acquire.** (a) No person shall acquire the ownership of a firearm, whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner or unregistered, either by purchase, gift, inheritance, bequest, or in any other manner, whether procured in the State or imported by mail, express, freight, or otherwise, until the person has first procured from the chief of police of the county of the person’s place of business or, if there is no place of business, the person’s residence or, if there is neither place of business nor residence, the person’s place of sojourn, a permit to acquire the ownership of a firearm as prescribed in this section. When title to any firearm is

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acquired by inheritance or bequest, the foregoing permit shall be obtained before taking possession of [a] the firearm; provided that upon presentation of a copy of the death certificate of the owner making the bequest, any heir or legatee may transfer the inherited or bequested firearm directly to a dealer licensed under section 134-31 or licensed by the United States Department of Justice without complying with the requirements of this section.

(b) The permit application form shall [~~include the~~]:

(1) Include:

(A) The applicant's name, address, [~~sex,~~ gender, height, weight, date of birth, place of birth, country of citizenship, social security number, alien or admission number[, and information];

(B) Information regarding the applicant's mental health history;

(C) Any aliases or other names previously used by the applicant;

(D) Information that is or may be relevant in determining whether the applicant is disqualified under section 134-7 from the ownership, possession, or control of a firearm; and

(E) Information that is or may be relevant in determining whether the applicant lacks

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the essential character or temperament necessary to be entrusted with a firearm as set forth in subsection (e); and [shall require]

(2) Require the fingerprinting and photographing of the applicant by the police department of the county of registration; provided that where fingerprints and a photograph are already on file with the department, these may be waived.

(c) An applicant for a permit shall ~~[sign]~~:

(1) Sign a waiver at the time of application, allowing the chief of police of the county issuing the permit or a designee of the Chief of police access to ~~[any]~~ all records that have a bearing on the mental health of the applicant~~[- The permit application form and the waiver form shall be prescribed by the attorney general and shall be uniform throughout the State.]; and~~

(2) Identify any health care providers who possess or may possess the records described in paragraph (1).

(d) The chief of police of the respective counties ~~[may]~~ shall issue permits to acquire firearms to ~~[citizens]~~:

(1) Citizens, nationals, or lawful permanent residents of the United States of the age of twenty-one years or more~~[- or duly]~~:

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- (2) Duly accredited official representatives of foreign nations~~[, or duly]~~;
- (3) Duly commissioned law enforcement officers of the State who are aliens; provided that any law enforcement officer who is the owner of a firearm and who is an alien shall transfer ownership of the firearm within forty-eight hours after termination of employment from a law enforcement agency~~[- The chief of police of each county may issue permits to aliens]~~;
- (4) Aliens of the age of eighteen years or more for use of rifles and shotguns for a period not exceeding sixty days, upon a showing that the alien has first procured a hunting license under chapter 183D, part II~~[- The chief of police of each county may issue permits to aliens]~~; and
- (5) Aliens of the age of twenty-one years or more for use of firearms for a period not exceeding six months, upon a showing that the alien is in training for a specific organized sport-shooting contest to be held within the permit period.

The attorney general ~~[shall]~~ may adopt rules, pursuant to chapter 91, as to what constitutes sufficient evidence that an alien is in training for a sport-shooting contest.

Notwithstanding any law to the contrary and upon joint application, the chief of police may, upon request, issue permits to acquire firearms jointly to spouses who otherwise qualify to obtain permits under this section.

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(e) The permit application form shall be signed by the applicant and ~~by the~~ issuing authority. One copy of the permit shall be retained by the issuing authority as a permanent official record. Except for sales to dealers licensed under section 134-31, ~~or~~ dealers licensed by the United States Department of Justice, ~~or~~ law enforcement officers, ~~or where a license is granted under section 137-9,~~ or where any firearm is registered pursuant to section 134-3(a), no permit shall be issued to an applicant earlier than fourteen calendar days after the date of the application; provided that a permit shall be issued or the application denied before the ~~twentieth~~ fortieth day from the date of application. Permits issued to acquire any pistol or revolver shall be void unless used within ~~ten~~ thirty days after the date of issue. Permits to acquire a pistol or revolver shall require a separate application and permit for each transaction. Permits issued to acquire any rifle or shotgun shall entitle the permittee to make subsequent purchases of rifles or shotguns for a period of one year from the date of issue without a separate application and permit for each acquisition, subject to the disqualifications under section 134- 7 and ~~subject to~~ revocation under section 134-13; provided that if a permittee is arrested for committing a felony ~~or any~~, a crime of violence, a criminal offense relating to firearms, or for the illegal sale or distribution of any drug, the permit shall be impounded and ~~shall be~~ surrendered to the issuing authority. The issuing authority shall perform an inquiry on an applicant by using the International Justice and Public Safety Network, including the United States Immigration and Customs Enforcement query, ~~the~~ National Crime Information Center, and ~~the~~ National Instant Criminal Background Check System, pursuant to section 846-2.7

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before any determination to issue a permit or to deny an application is made. The issuing authority shall not issue a permit to acquire the ownership of a firearm if an applicant is disqualified under section 134-7 from the ownership, possession, or control of a firearm, or if the issuing authority determines that issuance would not be in the interest of public health, safety, or welfare because the person lacks the essential character or temperament necessary to be entrusted with a firearm. In determining whether a person lacks the essential character or temperament necessary to be entrusted with a firearm, the issuing authority shall consider whether the person poses a danger of causing a self-inflicted bodily injury or unlawful injury to another person, as evidenced by:

- (1) Information from a health care provider indicating that the person has had suicidal or homicidal thoughts or tendencies within the preceding five years;
- (2) Statements or actions by the person indicating any dangerous propensity or violent animus toward one or more individuals or groups, including groups based on race, color, national origin, ancestry, sex, gender identity, gender expression, sexual orientation, age, disability, religion, or any other characteristic, and the propensity or animus is of a nature or to an extent that would objectively indicate to a reasonable observer that it would not be in the interest of the public health, safety, or welfare for the person to own, possess, or control a firearm or ammunition; or

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- (3) Other information that would lead a reasonable, objective observer to conclude that the person presents or would present a danger to the community as a result of acquiring or possessing a firearm or intends or is likely to use a firearm for an unlawful purpose or in an unlawful manner.

(f) In all cases where a pistol or revolver is acquired from another person within the State, the permit shall be signed in ink by the person to whom title to the pistol or revolver is transferred and shall be delivered to the person who is transferring title to the firearm, who shall verify that the person to whom the firearm is to be transferred is the person named in the permit and enter on the permit in the space provided the following information: name, address, and telephone number of the person who transferred the firearm; name, address, and telephone number of the person to whom the title to the firearm was transferred; names of the manufacturer and importer; model; type of action; caliber or gauge; and serial number, as applicable. The person who is transferring title to the firearm shall sign the permit in ink and cause the permit to be delivered or sent by registered mail to the issuing authority within forty-eight hours after transferring the firearm.

In all cases where receipt of a firearm is had by mail, express, freight, or otherwise from sources [~~without~~] outside the State, the person to whom the permit has been issued shall make the prescribed entries on the permit, sign the permit in ink, and cause the permit to be delivered or sent by registered mail to the issuing authority within forty-eight hours after taking possession of the firearm.

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In all cases where a rifle or shotgun is acquired from another person within the State, the person who is transferring title to the rifle or shotgun shall submit, within forty-eight hours after transferring the firearm, to the authority that issued the permit to acquire, the following information, in writing: name, address, and telephone number of the person who transferred the firearm[;]; name, address, and telephone number of the person to whom the title to the firearm was transferred; names of the manufacturer and importer; model; type of action; caliber or gauge; and serial number, as applicable.

(g) [~~Effective July 1, 1995, no~~] No person shall be issued a permit under this section for the acquisition of a [~~pistol or revolver~~] firearm unless the person, [~~at any time prior to~~] within the four years before the issuance of the permit, has completed:

- (1) An approved hunter education course as authorized under section 183D-28[;], unless the applicant seeks to acquire a pistol or revolver, in which case the applicant shall complete a training satisfying the requirements of paragraph (2), (3), or (4);
- (2) A firearms safety or training course or class available to the general public offered by a law enforcement agency of the State or of any county;
- (3) A firearms safety or training course offered to law enforcement officers, security guards, investigators, deputy sheriffs, or any division

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or subdivision of law enforcement or security enforcement by a state or county law enforcement agency; or

- (4) A firearms training or safety course or class conducted by a [~~state certified or National Rifle Association certified firearms instructor~~] firearms instructor certified or verified by the Chief of police of the respective county or a designee of the chief of police or certified by a nongovernmental organization approved for such purposes by the chief of police of the respective county or a designee of the chief of police, or conducted by a certified military firearms instructor; provided that the firearms training or safety course or class provides, at a minimum, a total of at least two hours of firing training at a firing range and a total of at least four hours of classroom instruction, which may include a video, that focuses on:
- (A) The safe use, handling, and storage of firearms and firearm safety in the home[;], as well as a component on mental health, suicide prevention, and domestic violence issues associated with firearms and firearm violence; and
- (B) Education on the firearm laws of the State.

An affidavit signed by the certified or verified firearms instructor who conducted or taught the course, providing the name, address, and

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phone number of the instructor and attesting to the successful completion of the course by the applicant shall constitute evidence of certified successful completion under this paragraph~~[-];~~ provided that an instructor shall not submit an affidavit signed by the instructor for the instructor's own permit application.

(h) No person shall sell, give, lend, or deliver into the possession of another any firearm except in accordance with this chapter.

(i) No fee shall be charged for permits, or applications for permits, under this section, except for a single fee chargeable by and payable to the issuing county~~[-, for individuals applying for their first permit]~~ in an amount equal to the fee charged by the Hawaii criminal justice data center pursuant to section 846-2.7. In the case of a joint application, the fee provided for in this section may be charged to each person ~~[to whom no previous permit has been issued]~~. If an application under this section is denied, the chief of police or a designee of the chief of police shall notify the applicant of the denial in writing, stating the ground or grounds for the denial and informing the applicant of the right to seek review of the denial through a hearing pursuant to subsection (k).

(j) In all cases where a permit application under this section is denied because an applicant is prohibited from owning, possessing, receiving, or controlling firearms under federal or state law, the chief of police of the applicable county shall, within ten business days

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from the date of denial, send written notice of the denial, including the identity of the applicant and the reasons for the denial; to the:

- (1) Prosecuting attorney in the county where the permit was denied;
- (2) Attorney general;
- (3) United States Attorney for the District of Hawaii; and
- (4) Director of public safety.

If the permit to acquire was denied because the applicant is subject to an order described in section 134-7(f), the chief of police shall, within three business days from the date of denial, send written notice of the denial to the court that issued the order.

When the director of public safety receives notice that an applicant has been denied a permit because of a prior criminal conviction, the director of public safety shall determine whether the applicant is currently serving a term of probation or parole, and if the applicant is serving such a term, send written notice of the denial to the applicant's probation or parole officer.

(k) If an application under this section is denied, a person or entity aggrieved by the denial shall be entitled to a hearing before the chief of police of the appropriate county or a designee of the chief of police. A person or

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entity aggrieved by the denial shall submit a request for a hearing in writing to the chief of police of the appropriate county no later than thirty days following the date of the decision or determination notice. The hearing shall constitute a contested case hearing for purposes of Chapter 91. Following the hearing and final decision, an aggrieved party shall be entitled to a judicial review proceeding in state circuit court in accordance with section 91-14.

(1) The permit application form and the waiver form required under this section shall be prescribed by the issuing authority.”

SECTION 5. Section 134-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) No person shall intentionally, knowingly, or recklessly lend a firearm to any person who is prohibited from ownership ~~[or]~~, possession, or control of a firearm under section 134-7.”

SECTION 6. Section 134-7, Hawaii Revised Statutes, is amended to read as follows:

**“§134-7 Ownership ~~[or]~~, possession, or control prohibited, when; penalty.** (a) No person who is a fugitive from justice or ~~[is a person]~~ prohibited from possessing ~~[firearms]~~ a firearm or ammunition under title 18 United States Code section 922 or any other provision of federal law shall own, possess, or control any firearm or ammunition ~~[therefor]~~.

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(b) No person who ~~[is under indictment for, or has waived indictment for, or has been bound over to the circuit court for,]~~ is being prosecuted for one or more charges for a felony, a crime of violence, a criminal offense relating to firearms, or an illegal sale or distribution of any drug in a court in this State or elsewhere, or who has been convicted in this State or elsewhere of having committed a felony, ~~or any~~ a crime of violence, a criminal offense relating to firearms, or an illegal sale or distribution of any drug shall own, possess, or control any firearm or ammunition ~~therefor~~.

(c) No person ~~[who:]~~ shall own, possess, or control any firearm or ammunition if the person:

- (1) Is or has been under treatment or counseling for addiction to, abuse of, or dependence upon any dangerous, harmful, or detrimental drug, intoxicating compound as defined in section 712-1240, or intoxicating liquor;
- (2) Has been acquitted of a crime on the grounds of mental disease, disorder, or defect pursuant to section 704-411[;] or any similar provision under federal law, or the law of another state, a United States territory, or the District of Columbia;
- (3) Is or has been diagnosed ~~[as having a significant behavioral, emotional, or mental disorders as defined by the most current diagnostic manual of the American Psychiatric Association or for treatment for organic brain syndrome]~~ with or

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treated for a medical, behavioral, psychological, emotional, or mental condition or disorder that causes or is likely to cause impairment in judgment, perception, or impulse control to an extent that presents an unreasonable risk to public health, safety, or welfare if the person were in possession or control of a firearm; or

- (4) Has been adjudged to:
- (A) Meet the criteria for involuntary hospitalization under section 334-60.2; or
  - (B) Be an “incapacitated person”, as defined in section 560:5-102,

~~[shall own, possess, or control any firearm or ammunition therefor,] unless the person [has been medically documented to be] establishes, with appropriate medical documentation, that the person is no longer adversely affected by [the addiction, abuse, dependence, mental disease, disorder, or defect.] the criteria or statuses identified in this subsection.~~

(d) No person who is less than twenty-five years old and has been adjudicated by the family court to have committed a felony, ~~[two or more crimes]~~ a crime of violence, a criminal offense relating to firearms, or an illegal sale or distribution of any drug shall own, possess, or control any firearm or ammunition ~~[therefor].~~

(e) No minor ~~[who]~~ shall own, possess, or control any firearm or ammunition if the minor:

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- (1) Is or has been under treatment for addiction to any dangerous, harmful, or detrimental drug, intoxicating compound as defined in section 712-1240, or intoxicating liquor;
- (2) Is a fugitive from justice; or
- (3) Has been determined not to have been responsible for a criminal act or has been committed to any institution on account of a mental disease, disorder, or defect[;].

~~[shall own, possess, or control any firearm or ammunition therefor] unless the minor [has been medically documented to be] establishes, with appropriate medical documentation, that the minor is no longer adversely affected by the addiction, mental disease, disorder, or defect.~~

For the purposes of enforcing this section, and notwithstanding section 571-84 or any other law to the contrary, any agency within the State shall make its records relating to family court adjudications available to law enforcement officials.

(f) No person who has been restrained pursuant to an order of any court, including a gun violence protective order issued pursuant to part IV, from contacting, threatening, or physically abusing any person, shall possess, control, or transfer ownership of any firearm or ammunition ~~[therefor]~~, so long as the protective order, restraining order, or any extension is in effect~~[-unless the order, for good cause shown, specifically permits the possession of a firearm and ammunition]~~. The protective

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order or restraining order shall specifically include a statement that possession, control, or transfer of ownership of a firearm or ammunition by the person named in the order is prohibited. The person shall relinquish possession and control of any firearm and ammunition owned by that person to the police department of the appropriate county for safekeeping for the duration of the order or extension thereof. At the time of service of a protective order or restraining order involving firearms and ammunition issued by any court, a police officer may take custody of any and all firearms and ammunition in plain sight, those discovered pursuant to a consensual search, and those firearms surrendered by the person restrained. If the person restrained is the registered owner of a firearm and knows the location of the firearm, but refuses to surrender the firearm or ~~[refuses to]~~ disclose the location of the firearm, the person restrained shall be guilty of a misdemeanor. In any case, when a police officer is unable to locate the firearms and ammunition either registered under this chapter or known to the 'person granted protection by the court, the police officer shall apply to the court for a search warrant pursuant to chapter 803 for the limited purpose of seizing the firearm and ammunition.

~~[For the purposes of this subsection, good cause shall no be based solely upon the consideration that the person subject to restraint pursuant to an order of any court is required to possess or carry firearms or ammunition during the course of the person's employment. Good cause consideration may include but not be limited to the protection and safety of the person to whom a restraining order is granted.]~~

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(g) Any person disqualified from ownership, possession, control, or the right to transfer ownership of firearms and ammunition under this section shall surrender or dispose of all firearms and ammunition in compliance with section 134-7.3.

(h) Any person who otherwise would be prohibited under subsection (b) from owning, possessing, or controlling a firearm and ammunition solely as a result of a conviction for a crime that is not a felony, and who is not prohibited from owning, possessing, or controlling a firearm or ammunition for any reason under any other provision of this chapter or under title 18 United States Code section 922 or another provision of federal law, shall not be prohibited under this section from owning, possessing, or controlling a firearm and ammunition if twenty years have elapsed from the date of the conviction.

[h] (i) Any person violating subsection (a) or (b) shall be guilty of a class C felony; provided that any felon violating subsection (b) shall be guilty of a Class B felony. Any person violating subsection (c), (d), (e), (f), or (g) shall be guilty of a misdemeanor.”

SECTION 7. Section 134-9, Hawaii Revised Statutes, is amended to read as follows:

**“§134-9 Licenses to carry.** (a) ~~[In an exceptional case, when an applicant shows reason to fear injury to the applicant’s person or property, the]~~ The chief of police of ~~[the appropriate]~~ a county ~~[may]~~ shall grant a license to an applicant ~~[who is a citizen of the United States of the~~

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~~age of twenty one years or more or to a duly accredited official representative of a foreign nation of the age of twenty one years or more] to carry a pistol or revolver and ammunition [therefor] concealed on the licensee's person within [the county where the license is granted. Where the urgency or the need has been sufficiently indicated, the respective] the State, if the applicant:~~

- (1) Satisfies each of the criteria established by or pursuant to subsection (d);
- (2) Is not prohibited under section 134-7 from the ownership, possession, or control of a firearm and ammunition;
- (3) Is not found to be lacking the essential character or temperament necessary to be entrusted with a firearm as set forth in subsection (h);
- (4) Is a citizen, national, or lawful permanent resident of the United States or a duly accredited official representative of a foreign nation;
- (5) Is a resident of the State; and
- (6) Is of the age of twenty-one years or more.

~~(b) The chief of police of a county may grant to an applicant [of good moral character who is a citizen of the United States of the age of twenty one years or more, is engaged in the protection of life and property, and is not prohibited under section 134-7 from the ownership~~

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~~or possession of a firearm,]~~ a license to carry a pistol or revolver and ammunition ~~[therefor]~~ unconcealed on the licensee's person within the county where the license is granted~~[-]~~, if the applicant:

- (1) Sufficiently establishes the urgency or need to carry a firearm unconcealed;
- (2) Is engaged in the protection of life and property;
- (3) Satisfies each of the criteria established by or pursuant to subsection (d);
- (4) Is not prohibited under section 134-7 from the ownership, possession, or control of a firearm and ammunition;
- (5) Is not found to be lacking the essential character or temperament necessary to be entrusted with a firearm as set forth in subsection (h);
- (6) Is a citizen, national, or lawful permanent resident of the United States; and
- (7) Is of the age of twenty-one years or more.

(c) The chief of police of the appropriate county, or ~~[the chief's]~~ a designated representative[-] of the chief of police, shall perform an inquiry on an applicant by using the National Instant Criminal Background Check System, to include a check of the Immigration and Customs Enforcement databases ~~[where]~~ if the applicant is not a

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citizen of the United States, before any determination to grant a concealed or unconcealed license is made. [~~Unless renewed, the license shall expire one year from the date of issue.~~]

~~(b) The chief of police of each county shall adopt procedures to require that any person granted a license to carry a concealed weapon on the person shall;~~

(d) To be eligible to receive a license to carry a concealed or unconcealed pistol or revolver on the licensee's person, the applicant shall:

- (1) [~~Be qualified to use the firearm in a safe manner;~~]

Submit the appropriate carry license application, in person, to the chief of police of the appropriate county, with:

- (A) All fields on the application form completed and all questions answered truthfully, under penalty of law;
- (B) All required signatures present on the application;
- (C) Any required documents attached to the application; and
- (D) Payment of the nonrefundable license application fee required under this section;

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- (2) ~~[Appear to be a suitable person to be so licensed;]~~  
Be the registered owner of the firearm or firearms for which the license to carry will be issued; provided that this paragraph shall not apply to detectives, private detectives, investigators, and guards with an active license issued pursuant to chapter 463;
- (3) Not be prohibited under section 134-7 from the ownership ~~[or]~~, possession, or control of a firearm; ~~[and]~~
- (4) ~~[Not have been adjudged insane or not appear to be mentally deranged]~~ Have completed a course of training as described in subsection (e) and be certified as qualified to use the firearm or firearms for which the license to carry will be issued in a safe manner; and
- (5) Sign an affidavit expressly acknowledging that:
  - (A) The applicant has read and is responsible for understanding and complying with the federal, state, and county laws governing the permissible use of firearms and associated requirements, including:
    - (i) The prohibition on carrying or possessing a firearm in certain locations and premises;
    - (ii) The prohibition on carrying more than one firearm on the licensee's person at one time.

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- (iii) The prohibition on carrying a firearm on private property of another person without the express authorization of the owner, lessee, operator, or manager of the private property;
  - (iv) The requirement to maintain possession of the license on the licensee's person while carrying a firearm;
  - (v) The requirement to disclose information regarding the carrying of a firearm when stopped by law enforcement;
  - (vi) The provision for absolute liability for injury or property damage proximately caused by a legally unjustified discharge of a firearm under section 663-9.5; and
  - (vii) Laws regarding the use of deadly force for self-defense or the defense of another;
- (B) A license to carry issued under this section shall be void if a licensee becomes disqualified from the ownership, possession, or control of a firearm pursuant to section 134-7(a), (b), (d), or (f);

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- (C) The license shall be subject to revocation under section 134-13 if a licensee for any other reason becomes disqualified under section 134-7 from the ownership, possession, or control of a firearm; and
- (D) A license that is revoked or that becomes void shall be returned to the chief of police of the appropriate county within forty-eight hours after the license is revoked or becomes void.

~~(e) No person shall carry concealed or unconcealed on the person a pistol or revolver without being licensed to do so under this section or in compliance with sections 134-5(e) or 134-25.~~

~~(d) A fee of \$10 shall be charged for each license and shall be deposited in the treasury of the county in which the license is granted.]~~

(e) The course of training for issuance of a license under this section may be any course acceptable to the licensing authority that meets all of the following criteria:

- (1) The course shall include in-person instruction on firearm safety; firearm handling; shooting technique; safe storage; legal methods to transport firearms and secure firearms in vehicles; laws governing places in which persons are prohibited from carrying a firearm; firearm usage in low-light situations; situational

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awareness and conflict management; and laws governing firearms, including information regarding the circumstances in which deadly force may be used for self-defense or the defense of another;

- (2) The course shall include a component on mental health and mental health resources;
- (3) Except for the component on mental health and mental health resources, the course shall be conducted by one or more firearms instructors certified or verified by the chief of police of the respective county or a designee of the chief of police or certified by a nongovernmental organization approved for those purposes by the chief of police of the respective county or a designee of the chief of police, or conducted by one or more certified military firearms instructors;
- (4) The course shall require participants to demonstrate their understanding of the covered topics by achieving a score of at least seventy per cent on a written examination; and
- (5) The course shall include live-fire shooting exercises on a firing range and shall include a demonstration by the applicant of safe handling of, and shooting proficiency with, each firearm that the applicant is applying to be licensed to carry.

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(f) Upon passing the course of training identified in subsection (e), the applicant shall obtain from the instructor, and include as part of the applicant's application package, a certification as to the following:

- (1) The applicant's name, as confirmed by reviewing the applicant's government-issued photo identification;
- (2) The date and location of the firearm proficiency test;
- (3) The firearm or firearms that the applicant used in the firearm proficiency test;
- (4) The applicant's score; provided that an indication that the applicant passed or failed, without the score itself, shall be insufficient information for the purposes of the application; and
- (5) The instructor's qualifications to administer the firearm proficiency test.

The certification of the above information, signed by the firearms instructor who conducted or taught the course, providing the name, address, and phone number of the instructor, shall constitute evidence of successful completion of the course; provided that the instructor shall not submit a certification signed by the instructor for the instructor's own license application. The course of training for issuance of a license under this section shall be undertaken at the licensee's expense.

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(g) An applicant for a license under this section shall:

- (1) Sign a waiver at the time of application, allowing the chief of police of the county issuing the license or a designee of the chief of police access to any records that have a bearing on the mental health of the applicant; and
- (2) Identify any health care providers who possess or may possess the records described in paragraph (1).

(h) In determining whether a person lacks the essential character or temperament necessary to be entrusted with a firearm, the licensing authority shall consider whether the person poses a danger of causing self-inflicted bodily injury or unlawful injury to another person, as evidenced by:

- (1) Information from a health care provider indicating that the person has had suicidal or homicidal thoughts or tendencies within the preceding five years;
- (2) Statements or actions by the person indicating any dangerous propensity or violent animus toward one or more individuals or groups, including groups based on race, color, national origin, ancestry, sex, gender identity, gender expression, sexual orientation, age, disability, religion, or any other Characteristic, and the propensity or animus is of a nature or to an

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extent that would objectively indicate to a reasonable observer that it would not be in the interest of the public health, safety, or welfare for the person to own, possess, or control a firearm or ammunition; or

- (3) Other information that would lead a reasonable, objective observer to conclude that the person presents or would present a danger to the community as a result of carrying a firearm in public or intends or is likely to use a firearm for an unlawful purpose or in an unlawful manner.

(i) A nonrefundable fee of \$150 shall be charged for each license application submitted under this section. The fee shall be chargeable by and payable to the appropriate county and shall be used for expenses related to police services. The issuing authority shall waive the fee required by this subsection upon a showing of financial hardship by the applicant.

(j) If the applicant satisfies each of the requirements for a concealed carry license, an application for a concealed carry license submitted to the chief of police of the appropriate county under this section shall be approved within a reasonable time after receipt of all required application materials. If the applicant does not satisfy one or more of the requirements for a concealed carry license, the license shall be denied within a reasonable time after receipt of the application materials. If an application is denied, the Chief of police or a designee of the chief of police shall notify the applicant of the denial in writing,

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stating the ground or grounds for the denial and informing the applicant of the right to seek review of the denial through a hearing pursuant to subsection (k). If the chief of police does not grant or deny a submitted application for a concealed carry license within one hundred twenty days following the date of the application, the application shall be deemed denied as of that date for purposes of subsection (k).

(k) If an application under this section is denied, a person or entity aggrieved by the denial shall be entitled to a hearing before the chief of police of the appropriate county or a designee of the chief of police. A person or entity aggrieved by the denial shall submit a request for a hearing in writing to the chief of police of the appropriate county no later than thirty days following the date of the decision or determination notice. The hearing shall constitute a contested case hearing for purposes of chapter 91. Following the hearing and final decision, an aggrieved party shall be entitled to a judicial review proceeding in state circuit court in accordance with section 91-14.

(l) If an application pursuant to this section is approved, the Chief of police shall issue the applicant a license that contains, at minimum:

- (1) The licensee's name;
- (2) The licensee's address;
- (3) A photograph of the licensee taken within ninety days before issuance of the license;

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- (4) The county of issuance;
- (5) A notation as to whether the license permits concealed or unconcealed carry;
- (6) The serial number of each registered firearm that the licensee may carry pursuant to the license; and
- (7) The license expiration date.

The license issued under this subsection shall not constitute a government-issued photo identification document under federal or state law.

(m) Unless renewed, a concealed or unconcealed license shall expire four years from the date of issue.

(n) A license to carry issued under this section shall be void if a licensee becomes disqualified from the ownership, possession, or control of a firearm pursuant to section 134-7(a), (b), (d), or (f). If a licensee for any other reason becomes disqualified under section 134-7 from the ownership, possession, or control of a firearm, the license shall be subject to revocation under section 134-13. A license that is void or revoked shall be returned to the chief of police of the appropriate county within forty-eight hours after the license becomes void or is revoked.

(o) The chief of police of each county shall adopt procedures to implement this section.

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(p) The chief of police of each county shall establish procedures and criteria for the renewal of licenses issued under this section. No license renewal shall be granted if an applicant for a renewed license does not satisfy, or no longer satisfies, the eligibility criteria for a new license set forth in subsections (a) through (d). As a precondition for the renewal of licenses issued under this section, the chief of police of each county may establish reasonable continuing education, training, and certification requirements, including requirements pertaining to the safe handling of firearms and shooting proficiency. A nonrefundable fee of \$50 shall be charged for each license renewal application submitted under this section. The fee shall be chargeable by and payable to the appropriate county and shall be used for expenses related to police services. The issuing authority shall waive the fee required by this subsection upon a showing of financial hardship by the applicant.

(q) No person carrying a firearm pursuant to a license issued under this section shall intentionally, knowingly, or recklessly carry more than one firearm on the licensee's person at one time.

(r) A license issued by the chief of police of a county within the State under subsection (a) to carry a pistol or revolver and ammunition concealed on the licensee's person shall be valid for use in each county within the State."

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SECTION 8. Section 134-13, Hawaii Revised Statutes, is amended to read as follows:

**“§134-13 Revocation of permits[-] and licenses.** (a) All permits and licenses provided for under this part ~~[may]~~ shall be revoked~~[, for good cause]~~ by the issuing authority ~~[or]~~, and may be revoked by ~~[the judge of]~~ any court~~[-]~~, if the issuing authority or court determines that the permit or license is subject to revocation because the permit or license holder does not satisfy, or no longer satisfies, the applicable qualifications or requirements associated with the permit or license.

(b) If the issuing authority determines that a permit or license is subject to revocation, the issuing authority shall notify the permit or license holder of the determination in writing, stating the grounds for the determination and informing the permit or license holder of the right to seek a hearing before the issuing authority regarding the determination before revocation. Unless the permit or license holder submits a request for a hearing in writing to the issuing authority no later than thirty days following the date of the written notice that the permit or license is subject to revocation, the permit or license shall be immediately revoked by the issuing authority. Any hearing regarding a determination on whether a permit or license is subject to revocation shall constitute a contested case hearing for purposes of Chapter 91. A person or entity aggrieved by a revocation under this section may apply for judicial review in state circuit court in accordance with section 91-14.

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(c) If a permit or license is revoked pursuant to this section, the former permit or license holder shall return the permit or license to the issuing authority within forty-eight hours following receipt of the notice of revocation.”

SECTION 9. Section 134-17, Hawaii Revised Statutes, is amended to read as follows:

~~“§134-17 Penalties. (a) If any person [gives false information or offers false evidence of the person’s identity in complying with an of the requirements of this part, that person shall be guilty of a misdemeanor; provided, however, that if any person intentionally gives false information or offers false evidence concerning their] intentionally, knowingly, or recklessly makes any materially false, fictitious, or fraudulent statement or representation in connection with any of the requirements of this part, that person shall be guilty of a misdemeanor; provided that if any person intentionally, knowingly, or recklessly makes any materially false, fictitious, or fraudulent statement or representation regarding the person’s psychiatric or criminal history in [complying] connection with any of the requirements of this part, that person shall be guilty of a class C felony.~~

~~[(b) Any person who violates section 134-3(a) shall be guilty of a petty misdemeanor.~~

(e) (b) Any person who violates [section]:

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- (1) Section 134-2, 134-4, 134-10, [or] 134-13(c), or 134-15 shall be guilty of a misdemeanor~~[-Any person who violates section]~~;
- (2) Section 134-3(a) or 134-9(q) shall be guilty of a petty misdemeanor; or
- (3) Section 134-3(b) shall be guilty of a petty misdemeanor and the firearm shall be confiscated as contraband and disposed of, if the firearm is not registered within five days of the person receiving notice of the violation.”

SECTION 10. Section 134-18, Hawaii Revised Statutes, is amended to read as follows:

**“§134-18 Qualified immunity for physicians, psychologists, [or] psychiatrists, physician assistants, or advanced practice registered nurses who provide information on permit or license applicants.** There shall be no civil liability for any physician, psychologist, [or] psychiatrist, physician assistant, or advanced practice registered nurse who provides information or renders an opinion in response to an inquiry made for purposes of issuing a firearm permit under section 134-2, issuing or renewing a license under section 134-9, or ~~for purposes of~~ investigating the continuing mental health of the holder of a valid firearm permit or license; provided that the physician, psychologist, [or] psychiatrist, physician assistant, or advanced practice registered nurse acted without malice.”

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SECTION 11. Section 707-716, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

“(2) Terroristic threatening in the first degree is a class C felony[:]; provided that terroristic threatening in the first degree is a class B felony if committed with a firearm as defined in section 134-1, whether the firearm was loaded or not, and whether operable or not, or a simulated firearm, while in one of the locations or premises listed in section 134-A(a).”

SECTION 12. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Criminal history record checks may be conducted by:

- (1) The department of health or its designee on operators of adult foster homes for individuals with developmental disabilities or developmental disabilities domiciliary homes and their employees, as provided by section 321-15.2;
- (2) The department of health or its designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health or health care services as provided by section 321-171.5;

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- (3) The department of health or its designee on all applicants for licensure or certification for, operators for, prospective employees, adult volunteers, and all adults, except adults in care, at healthcare facilities as defined in section 321-15.2;
- (4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;
- (5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;
- (6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;
- (7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;
- (8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;

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- (9) The department of human services on prospective adoptive parents as established under section 346-19.7;
- (10) The department of human services or its designee on applicants to operate child care facilities, household members of the applicant, prospective employees of the applicant, and new employees and household members of the provider after registration or licensure as provided by section 346-154, and persons subject to section 346-152.5;
- (11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;
- (12) The department of health on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in community care foster family homes as provided by section 321-15.2;
- (13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;
- (14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to

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youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;

- (15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;
- (16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;
- (17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;
- (18) Private schools and designated organizations on employees and prospective employees Who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indication is of the states from which the national criminal history record information was provided pursuant to section 302C-1;
- (19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;

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- (20) The State or any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;
- (21) The department of health on licensed adult day care center operators, employees, new employees, subcontracted service providers and their employees, and adult volunteers as provided by section 321-15.2;
- (22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the adult protective and community services branch, as provided by section 346-97;
- (23) The department of human services on foster grandparent program, senior companion program, and respite companion program participants as provided by section 346-97;
- (24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, title 42 United States Code section 1396n(c), or

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under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;

- (25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;
- (26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;
- (27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;
- (28) The department of commerce and consumer affairs on:
  - (A) Each principal of every non-corporate applicant for a money transmitter license;
  - (B) Each person who upon approval of an application by a corporate applicant for a money transmitter license will be a principal of the licensee; and

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- (C) Each person who upon approval of an application requesting approval of a proposed change in control of licensee will be a principal of the licensee, as provided by sections 489D-9 and 489D-15;
- (29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;
- (30) The Hawaii health systems corporation on:
  - (A) Employees;
  - (B) Applicants seeking employment;
  - (C) Current or prospective members of the corporation board or regional system board; or
  - (D) Current or prospective volunteers, providers, or contractors, in any of the corporation's health facilities as provided by section 323F-5.5;
- (31) The department of commerce and consumer affairs on:
  - (A) An applicant for a mortgage loan originator license, or license renewal; and
  - (B) Each control person, executive officer, director, general partner, and managing

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member of an applicant for a mortgage loan originator company license or license renewal, as provided by chapter 454F;

- (32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-33;
- (33) The counties on prospective employees who work with children, vulnerable adults, or senior citizens in community-based programs;
- (34) The counties on prospective employees for fire department positions that involve contact with children or vulnerable adults;
- (35) The counties on prospective employees for emergency medical services positions that involve contact with children or vulnerable adults;
- (36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including viewing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable citizens during emergencies or crises;

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- (37) The State and counties on employees, prospective employees, volunteers, and contractors whose position responsibilities require unescorted access to secured areas and equipment related to a traffic management center;
- (38) The State and counties on employees and prospective employees whose positions involve the handling or use of firearms for other than law enforcement purposes;
- (39) The State and counties on current and prospective systems analysts and others involved in an agency's information technology operation whose position responsibilities provide them with access to proprietary, confidential, or sensitive information;
- (40) The department of commerce and consumer affairs on:
  - (A) Applicants for real estate appraiser licensure or certification as provided by chapter 466K;
  - (B) Each person who owns more than ten per cent of an appraisal management company who is applying for registration as an appraisal management company, as provided by section 466L-7; and
  - (C) Each of the controlling persons of an applicant for registration as an appraisal

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management company, as provided by section 466L-7;

- (41) The department of health or its designee on all license applicants, licensees, employees, contractors, and prospective employees of medical cannabis dispensaries, and individuals permitted to enter and remain in medical cannabis dispensary facilities as provided under sections 329D-15(a)(4) and 329D-16(a)(3);
- (42) The department of commerce and consumer affairs on applicants for nurse licensure or license renewal, reactivation, or restoration as provided by sections 457-7, 457-8, 457-8.5, and 457-9;
- (43) The county police departments on applicants for permits to acquire firearms pursuant to section 134-2 ~~and~~ on individuals registering their firearms pursuant to section 134-3[;], and on applicants for new or renewed licenses to carry a pistol or revolver and ammunition pursuant to section 134-9;
- (44) The department of commerce and consumer affairs on:
  - (A) Each of the controlling persons of the applicant for licensure as an escrow depository, and each of the officers, directors, and principals who will be in charge of the escrow depository's activities upon licensure; and

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- (B) Each of the controlling persons of an applicant for proposed change in control of an escrow depository licensee, and each of the officers, directors, and principals who will be in charge of the licensee's activities upon approval of the application, as provided by chapter 449;
- (45) The department of taxation on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 231-1.6;
- (46) The department of labor and industrial relations on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 383-110;
- (47) The department of human services on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 346-2.5;
- (48) The child support enforcement agency on current or prospective employees, or contractors who have access to federal tax information in order to comply with federal law, regulation, or procedure, as provided by section 576D-11.5;

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(49) The department of the attorney general on current or prospective employees or employees or agents of contractors who have access to federal tax information to comply with requirements of federal law, regulation, or procedure, as provided by section 28-17;

[E](50)[F] The department of commerce and consumer affairs on each control person, executive officer, director, general partner, and managing member of an installment loan licensee, or an applicant for an installment loan license, as provided in Chapter 480J;

[E](51)[F] The University of Hawaii on current and prospective employees and contractors whose duties include ensuring the security of campus facilities and persons; and

[E](52)[F] Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law.”

SECTION 13. Act 30, Session Laws of Hawaii 2022, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect upon its approval[; provided that on June 30, 2025, section 2 of this Act shall be repealed and section 134-3, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act].”

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SECTION 14. Every provision in this Act and every application of each provision in this Act is severable from each other. If any application of any provision in this Act to any person or group of persons or circumstances is determined by any court to be invalid, the remainder of this Act and the application of the Act's provisions to all other persons and circumstances shall not be affected. All constitutionally valid applications of this Act shall be severed from any applications that a court determines to be invalid or unenforceable, leaving the valid applications in force, because it is the legislature's intent that all valid applications shall remain in force.

SECTION 15. This Act shall be construed to be enforceable up to but no further than the maximum possible extent consistent with federal law and constitutional requirements.

SECTION 16. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 17. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 18. This Act shall take effect on July 1, 2023; provided that:

- (1) Sections 4 and 7 shall take effect on January 1, 2024;

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and

- (2) The amendments made to section 846-2-7(b), Hawaii Revised Statutes, by section 12 of this Act shall not be repealed when section 28 of Act 278, Session Laws of Hawaii 2022, takes effect on January 1, 2024.

**Report Title:**

Firearms; Permits; Licenses; Enforcement

**Description:**

Prohibits firearms in certain locations and premises. Requires possession and disclosure of a license to carry. Prohibits leaving an unsecured firearm in a vehicle unattended. Prohibits consuming or being under the influence of alcohol, an intoxicating liquor, or a controlled substance when carrying a firearm. Prohibits carrying or possessing firearms on certain private property without express authorization. Requires annual reports from the department of the attorney general on carry , licenses. Amends the requirements for, and revocation of, firearms permits and licenses. Amends the disqualification of persons from owning, possessing, or controlling a firearm. Expands the qualified immunity for health care providers who provide information on firearms applicants to include physician assistants and advanced practice registered nurses. (CD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

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**COMPLAINT EXHIBIT 2 — TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY  
GENERAL KA ‘OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2023**

**TESTIMONY OF  
THE DEPARTMENT OF THE  
ATTORNEY GENERAL  
KA ‘OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2023**

**ON THE FOLLOWING MEASURE:  
S.B. NO. 1230, RELATING TO FIREARMS.**

**BEFORE THE:  
SENATE COMMITTEE ON PUBLIC SAFETY  
AND INTERGOVERNMENTAL AND MILITARY  
AFFAIRS**

**DATE:** Monday, February 6, 2023      **TIME:** 3:00 p.m.

**LOCATION:** State Capitol, Room 225

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Dave Day, Special Assistant to the Attorney General

Chair Wakai and Members of the Committee:

The Department of the Attorney General (Department) strongly supports the intent of this bill and provide the following comments.

The purpose of this bill is to amend chapter 134, part I, Hawaii Revised Statutes (HRS), to: (1) establish an offense

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of carrying a firearm in certain “sensitive” locations, which is a misdemeanor, (2) require the Attorney General to publish an annual report on licenses to carry firearms, (3) prohibit issuing authorities from issuing permits, under section 134-2, to a person who is found to be lacking the essential character or temperament necessary to be entrusted with a firearm, (4) require issuing authorities to consider certain factors related to the risk of misuse by an applicant when issuing permits under section 134-2, (5) add a definition of the term “enclosed container” to section 134-5, (6) set forth requirements, qualifications, and procedures for an applicant seeking a license to carry a firearm, (7) require a license issued under part I of chapter 134, to be revoked under certain circumstances, and (8) require firearms to be kept in a locked container in a vehicle and place the container out of plain view when leaving the firearm in an unattended vehicle.

The Department strongly supports the intent of this bill. Gun violence represents an urgent public-health and public-safety issue, and S.B. No. 1230 would play an important role in clarifying, revising, and updating Hawaii’s firearms laws—addressing the serious hazards to public health, safety, and welfare posed by firearms and gun violence while respecting individual rights.

For 170 years—since 1852—Hawai’i has protected public health and safety by carefully limiting who may carry guns in public. For decades, a system of discretionary licensing was used: the police departments would evaluate an applicant and decide whether there was a good reason why that person needed to carry a concealed firearm in

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public. Largely due to Hawaii’s system of discretionary licenses, concealed weapons were not commonly carried in public in Hawai’i. Accordingly, there was not as great a need for some of the types of firearms laws that exist in many other states—for example, laws prohibiting carrying firearms in “sensitive places” like schools, playgrounds, and government buildings.

In the wake of *New York State Rifle and Pistol Association v. Bruen*, 142 S. Ct. 2111 (2022) (*Bruen*), many more people are applying for licenses to carry a firearm. Under *Bruen*, those licenses shall be granted unless there is an objective statutory basis requiring denial. This will result in a significant increase in the presence of firearms in public, with more individuals carrying concealed weapons in Hawai’i than ever before in our State’s history. This presents serious challenges for public health and safety. But even after the Supreme Court’s decision in *Bruen*, there are still a number of important tools available to address the serious and increasing risks posed by firearms and gun violence. States have the authority to enact “a ‘variety’ of gun regulations,” *Bruen*, 142 S. Ct. at 2162 (Kavanaugh, J., concurring), such as prohibiting the carrying of firearms in sensitive locations and adopting laws to ensure that those who carry firearms are “law-abiding, responsible citizens,” *id.* at 2133, 2138. *The Department believes that* S.B. No. 1230 would play an important role in clarifying, revising, and updating Hawaii’s firearms laws—addressing the serious hazards to public health, safety, and welfare posed by firearms and gun violence while respecting individual rights—and for these reasons strongly support the intent of the bill.

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Consistent with its strong support for this bill, the Department also offers the following comments.

First, the Committee may wish to consider adding a provision establishing that persons carrying a firearm in public must maintain their license on their person. Such a provision could, in the view of the Department, help promote public safety by ensuring that those who carry firearms pursuant to a license comply with applicable registration and licensing requirements. Similarly, the Committee may also wish to include a provision requiring persons stopped by law enforcement to inform a law enforcement officer when they are carrying a firearm concealed on their person. Such a provision would be intended to protect the public, protect law-enforcement-officer safety, and promote situational awareness during investigatory stops. A number of states have established similar requirements. *Cf.* N.C. Gen. Stat. § 14-415.11(a) (“[Licensee] shall carry the permit together with valid identification whenever the person is carrying a concealed handgun, shall disclose to any law enforcement officer that the person holds a valid permit and is carrying a concealed handgun when approached or addressed by the officer, and shall display both the permit and the proper identification upon the request of a law enforcement officer.”); Alaska Stat. Ann. § 11.61.220 (providing that a person must “immediately inform the peace officer of [firearm] possession” when stopped by law enforcement).

Possible wording to this effect—drawn from a similar bill, Senate Bill No. 1282—is reproduced below:

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**§134- Duty to maintain possession of license while carrying a firearm; duty to disclose; penalty.** (a) A person carrying a firearm pursuant to a license issued under section 134-9 or in accordance with title 18 United States Code section 926B or 926C shall have in the person's immediate possession:

- (1) The license issued under section 134-9 or credentials as required under title 18 United States Code section 926B or 926C; and
- (2) Documentary evidence that the firearm being carried is registered under this chapter, and shall, upon request from a law enforcement officer, present the license or credentials and evidence of registration.

(b) When a person carrying a firearm, including but not limited to a person carrying a firearm pursuant to a license issued under section 134-9 or in accordance with title 18 United States Code section 926B or 926C, is stopped by a law enforcement officer or is a driver or passenger in a vehicle stopped by a law enforcement officer, the person carrying a firearm shall immediately disclose to the law enforcement officer that the person is carrying a firearm, and shall, upon request:

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(1) Identify the specific location of the firearm; and

(2) Present to the law enforcement officer a license to carry a firearm issued under section 134-9 or credentials as required under title 18 United States Code section 926B or 926C.

(c) Any person who violates this section shall be guilty of a petty misdemeanor.

Second, the Committee may wish to consider amending the bill to require that persons who carry a firearm in public pursuant to a license to maintain insurance coverage insuring against loss resulting from liability imposed by law for bodily injury, death, and property damage arising out of the ownership, maintenance, operation, or use of a firearm carried in public. The Department believes that such a policy could help to promote safe practices and responsible gun ownership and make it more likely that persons injured by firearms will receive compensation. A similar provision was adopted by the New Jersey Legislature in December last year.

Possible language to this effect—again, drawn from Senate Bill No. 1282—is reproduced below:

**§134- Mandatory insurance coverage.** (a) Effective January 1, 2025, every person who carries a firearm in public pursuant to a license issued under section 134-9

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shall maintain insurance coverage insuring against loss resulting from liability imposed by law for bodily injury, death, or property damage sustained by any person arising out of the ownership, maintenance, operation, or use of a firearm carried in public. Liability coverage shall be not less than \$100,000 per person, with an aggregate limit of not less than \$300,000 per occurrence.

(b) Proof of insurance as required pursuant to subsection (a) shall, upon request, be produced by the person carrying a firearm in public within a reasonable amount of time following any injury, death, or property damage alleged to have been caused by the person carrying the firearm in public. This requirement shall be satisfied by delivering a full and complete copy of the applicable policy or policies of insurance that meet the standards established by subsection (a) and that were in force at the time of the injury, death, or property damage. Disclosure of policy information under this subsection shall not constitute an admission that the alleged injury, death, or property damage is subject to the policy.

Additionally, the Department notes that the term “handgun” used in page 17, lines 2, 7, 9, 13, 16, and 21, is not defined in chapter 134, HRS. We recommend replacing it with a term that is already defined for chapter 134, such as “pistol or revolver” or define the term “handgun.” The Department also recommends replacing “firearm” on page 19, line 17, with “pistol or revolver” for consistency with subsection (a) of section 134-9.

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Thank you again for the opportunity to provide comments on the bill. As noted above, the Department strongly supports the intent of this bill. The Department stands ready to assist this Committee with this measure at any time.

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**WRITTEN TESTIMONY OF  
THE DEPARTMENT OF THE  
ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2023**

**ON THE FOLLOWING MEASURE:**  
S.B. NO. 1230, S.D. 1, RELATING TO FIREARMS.

**BEFORE THE:**  
SENATE COMMITTEE ON JUDICIARY

**DATE:** Wednesday, March 1, 2023      **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 016

**TESTIFIER(S): WRITTEN TESTIMONY ONLY.**  
(For more information, contact Dave Day,  
Special Assistant to the Attorney General,  
at (808) 586-1284)

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) strongly supports this bill. Gun violence represents an urgent public-health and public-safety issue, and Senate Bill No. 1230, S.D. 1, would play an important role in clarifying, revising, and updating Hawaii's firearms laws—addressing the serious hazards to public health, safety, and welfare posed by firearms and gun violence while respecting individual rights.

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For 170 years—since 1852—Hawai'i has protected public health and safety by carefully limiting who may carry guns in public. For decades, a system of discretionary licensing was used: the police departments would evaluate an applicant and decide whether there was a good reason why that person needed to carry a concealed firearm in public. This policy was preserved and supported across many different administrations and legislative sessions, and it played an important role in helping to reduce the risks of gun violence in our communities. Largely due to Hawaii's system of discretionary licenses, concealed weapons were not commonly carried in public in Hawai'i. Accordingly, there was not as great a need for some of the types of firearms laws that exist in many other states—for example, laws prohibiting carrying firearms in “sensitive places” like schools, playgrounds, and government buildings, or laws prohibiting carrying a firearm in public while intoxicated.

In its June 2022 decision in *New York State Rifle and Pistol Association v. Bruen*, 142 S. Ct. 2111 (2022), the United States Supreme Court held that discretionary licensing systems for carrying guns in public cannot be used going forward. The Supreme Court also stated that the Second Amendment requires that state law must provide clear and objective criteria for when licenses to carry firearms in public will be granted. Moreover, after *Bruen*, the Second Amendment requires that if an applicant meets the statutory criteria that have been established by the state legislature, then a license to carry a concealed weapon in public “shall” be granted.

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The Supreme Court’s *Bruen* decision represents a very significant and disruptive change for our State. In the wake of *Bruen*, many more people are applying for licenses to carry a firearm. Under *Bruen*, those licenses shall be granted unless there is an objective statutory basis requiring denial. This will result in a significant increase in the presence of firearms in public, with more individuals carrying concealed weapons in Hawai’i than ever before in our State’s history. This presents serious challenges for public health and safety. This bill is an effort to address these challenges in the post-*Bruen* legal landscape.

Even after the Supreme Court’s decision in *Bruen*, there are still a number of important tools available to address the serious and increasing risks posed by firearms and gun violence. States have the authority to enact “a ‘variety’ of gun regulations,” *Bruen*, 142 S. Ct. at 2162 (Kavanaugh, J., concurring), such as prohibiting the carrying of firearms in sensitive locations and adopting laws to ensure that those who carry firearms are “law-abiding, responsible citizens,” *id.* at 2133, 2138.

This bill would, among other things, amend chapter 134, part I, Hawaii Revised Statutes (HRS), to: (1) establish an offense of carrying a firearm in certain “sensitive” locations or on the private property of another person without authorization; (2) require the Attorney General to publish an annual report on licenses to carry firearms; (3) prohibit issuing authorities from issuing permits, under section 134-2, HRS, to a person who is found to be lacking the essential character or temperament necessary to be

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entrusted with a firearm; (4) require issuing authorities to consider certain factors related to the risk of misuse by an applicant when issuing permits under section 134-2, HRS; (5) define the term “enclosed container” in section 134-1, HRS; (6) set forth requirements, qualifications, and procedures for an applicant seeking a license to carry a pistol or revolver; (7) require a license issued under part I of chapter 134, to be revoked under certain circumstances; (8) require firearms to be kept in a locked container and placed out of plain view when left in an unattended vehicle; (9) establish a duty to maintain possession of a license while carrying a firearm; (10) require that when a person carrying a firearm is stopped by a law enforcement officer or is a driver or passenger in a vehicle stopped by a law enforcement officer, the person shall immediately disclose to the law enforcement officer that the person is carrying a firearm and, upon request, identify the specific location of the firearm and present to the law enforcement officer a license or credentials to carry a firearm; (11) amend the definition of “crime of violence” in section 134-1, HRS; (12) require a person carrying a firearm in public pursuant to a license to maintain insurance coverage; and (13) clarify and amend section 846-2.7, HRS, to provide that county police departments may conduct criminal history record checks for licenses to carry a pistol or revolver and ammunition.

\* \* \*

The Department notes that proposed section 134-C, HRS, in the bill would require insurance coverage for those who engage in the licensed public carry of

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firearms (Section 2, section 134-C, HRS, page 11, line 12, through page 12, line 12). In particular, section 134-C would require that, effective January 1, 2025, every person who carries a firearm in public pursuant to a license maintain insurance coverage insuring against loss resulting from liability imposed by law for bodily injury, death, and property damage arising out of the ownership, maintenance, operation, or use of a firearm carried in public. The Department believes that firearms insurance represents a promising policy tool that warrants strong consideration. Several jurisdictions—including the State of New Jersey and the City of San Jose—have adopted similar measures in recent months. However, the Department also recognizes that there are a number of areas of uncertainty that presently exist in this area. To that end, the Committee could consider deleting the proposed section 134-C (page 11, line 12, through page 12, line 12) from the bill and instead requesting the Legislative Reference Bureau to conduct a study analyzing the use and effectiveness of systems of insurance and other financial responsibility requirements associated with the public carry of firearms.

\* \* \*

As outlined above, the Department strongly supports this bill. Thank you for your consideration of this important measure.

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**TESTIMONY OF  
THE DEPARTMENT OF THE  
ATTORNEY GENERAL  
KA ‘OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2023**

**ON THE FOLLOWING MEASURE:  
S.B. NO. 1230, S.D. 2, RELATING TO FIREARMS.**

**BEFORE THE:  
HOUSE COMMITTEE ON JUDICIARY AND  
HAWAIIAN AFFAIRS**

**DATE:** Tuesday, March 21, 2023      **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Dave Day, Special Assistant to the Attorney General

Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) strongly supports this bill. Gun violence represents an urgent public-health and public-safety issue, and Senate Bill No. 1230, S.D. 2, would play an important role in clarifying, revising, and updating Hawaii’s firearms laws—addressing the serious hazards to public health, safety, and welfare posed by firearms and gun violence while respecting individual rights.

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For 170 years—since 1852—Hawai‘i has protected public health and safety by carefully limiting who may carry guns in public. For decades, a system of discretionary licensing was used: the police departments would evaluate an applicant and decide whether there was a good reason why that person needed to carry a concealed firearm in public. This policy was preserved and supported across many different administrations and legislative sessions, and it played an important role in helping to reduce the risks of gun violence in our communities. Largely due to Hawaii’s system of discretionary licenses, concealed weapons were not commonly carried in public in Hawai‘i. Accordingly, there was not as great a need for some of the types of firearms laws that exist in many other states—for example, laws prohibiting carrying firearms in “sensitive places” like schools, playgrounds, and government buildings, or laws prohibiting carrying a firearm in public while intoxicated.

In its June 2022 decision in *New York State Rifle and Pistol Association v. Bruen*, 142 S. Ct. 2111 (2022), the United States Supreme Court held that discretionary licensing systems for carrying guns in public cannot be used going forward. The Supreme Court also stated that the Second Amendment requires that state law must provide clear and objective criteria for when licenses to carry firearms in public will be granted. Moreover, after *Bruen*, the Second Amendment requires that if an applicant meets the statutory criteria that have been established by the state legislature, then a license to carry a concealed weapon in public “shall” be granted.

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The Supreme Court’s *Bruen* decision represents a very significant and disruptive change for our State. In the wake of *Bruen*, many more people are applying for licenses to carry a firearm. Under *Bruen*, those licenses shall be granted unless there is an objective statutory basis requiring denial. This will result in a significant increase in the presence of firearms in public, with more individuals carrying concealed weapons in Hawai‘i than ever before in our State’s history. This presents serious challenges for public health and safety. This bill is an effort to address these challenges in the post-*Bruen* legal landscape.

Even after the Supreme Court’s decision in *Bruen*, there are still a number of important tools available to address the serious and increasing risks posed by firearms and gun violence. States have the authority to enact “a ‘variety’ of gun regulations,” *Bruen*, 142 S. Ct. at 2162 (Kavanaugh, J., concurring), such as prohibiting the carrying of firearms in sensitive locations and adopting laws to ensure that those who carry firearms are “law-abiding, responsible citizens.” *Id.* at 2133, 2138.

This bill would, among other things, amend chapter 134, part I, Hawaii Revised Statutes (HRS), to: (1) establish an offense of carrying a firearm in certain “sensitive” locations or on the private property of another person without authorization; (2) require the Attorney General to publish an annual report on licenses to carry firearms; (3) prohibit issuing authorities from issuing permits, under section 134-2, HRS, to a person who is found to be lacking

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the essential character or temperament necessary to be entrusted with a firearm; (4) require issuing authorities to consider certain factors related to the risk of misuse by an applicant when issuing permits under section 134-2, HRS; (5) define the term “enclosed container” in section 134-1, HRS; (6) set forth requirements, qualifications, and procedures for an applicant seeking a license to carry a pistol or revolver; (7) require a license issued under part I of chapter 134, to be revoked under certain circumstances; (8) require firearms to be kept in a locked container and placed out of plain view when left in an unattended vehicle; (9) establish a duty to maintain possession of a license while carrying a firearm; (10) require that when a person carrying a firearm is stopped by a law enforcement officer or is a driver or passenger in a vehicle stopped by a law enforcement officer, the person shall immediately disclose to the law enforcement officer that the person is carrying a firearm and, upon request, identify the specific location of the firearm and present to the law enforcement officer a license or credentials to carry a firearm; (11) amend the definition of “crime of violence” in section 134-1, HRS; (12) require a person carrying a firearm in public pursuant to a license to maintain insurance coverage; (13) provide qualified immunity to physician assistants and advanced practice registered nurses who provide information on permit or license applicants; and (14) clarify and amend section 846-2.7, HRS, to provide that county police departments may conduct criminal history record checks for licenses to carry a pistol or revolver and ammunition.

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With respect to the scope of the prohibition set forth in section 134-A, the Department supports the wording in the current draft that limits the applicability of this section to “a person granted a license to carry a concealed firearm under section 134-9, or in accordance with title 18 United States Code section 926B or 926C[.]” (Page 7, lines 5-7.) The Department notes that an existing place-to-keep statute—section 134-25, HRS—already makes it a class B felony to carry a firearm in public “[e]xcept as provided in sections 134-5 and 134-9[.]” Accordingly, a person licensed to carry a firearm under section 134-9, HRS, who carries a firearm in a sensitive place as defined in section 134-A would be subject to prosecution for a misdemeanor under section 134-A(h), while a person who carries a firearm in a sensitive place *without* first obtaining a license under section 134-9, HRS (unless covered by 134-5, HRS), would be subject to prosecution for a class B felony under section 134-25.

By contrast, a different bill, House Bill No. 984, H.D. 2, would apply the sensitive-places prohibition to all persons (*see* House Bill No. 984, H.D. 2, page 3, line 18), but would then apply an enhanced sentencing provision for persons “not licensed under section 134-9[.]” House Bill No. 984 H.D. 2, page 15, lines 6-11. The Department believes the approach adopted in Senate Bill No. 1230, S.D. 2, discussed above, would be preferable to the approach adopted in House Bill No. 984, H.D. 2, because of the uncertainty that might be created if the unlicensed carrying of a firearm in a sensitive place were simultaneously both a misdemeanor and a class B felony. The approach taken in Senate Bill

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No.1230—limiting the scope of the misdemeanor offense to licensees—also obviates the need for a separate enhanced sentencing provision. *See* House Bill No. 984, H.D. 2, page 15, lines 6-11.

\* \* \*

As outlined above, the Department strongly supports this bill. Thank you for your consideration of this important measure.

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**TESTIMONY OF  
THE DEPARTMENT OF THE  
ATTORNEY GENERAL  
KA ‘OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2023**

S.B. NO. 1230, S.D. 2, H.D. 1, RELATING TO  
FIREARMS.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**DATE:** Wednesday, April 5, 2023      **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 308

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
David D. Day, Special Assistant to the Attorney  
General

Chair Yamashita and Members of the Committee:

The Department of the Attorney General (Department) strongly supports this bill. Gun violence represents an urgent public-health and public-safety issue, and this bill would play an important role in clarifying, revising, and updating Hawaii’s firearms laws—addressing the serious hazards to public health, safety, and welfare posed by firearms and gun violence while respecting individual rights.

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For 170 years—since 1852—Hawai‘i has protected public health and safety by carefully limiting who may carry guns in public. For decades, a system of discretionary licensing was used: the police departments would evaluate an applicant and decide whether there was a good reason why that person needed to carry a concealed firearm in public. This policy was preserved and supported across many different administrations and legislative sessions, and it played an important role in helping to reduce the risks of gun violence in our communities. Largely due to Hawai‘i’s system of discretionary licenses, concealed weapons were not commonly carried in public in Hawai‘i. Accordingly, there was not as great a need for some of the types of firearms laws that exist in many other states—for example, laws prohibiting carrying firearms in “sensitive places” like schools, playgrounds, and government buildings, or laws prohibiting carrying a firearm in public while intoxicated.

In its June 2022 decision in *New York State Rifle and Pistol Association v. Bruen*, 142 S. Ct. 2111 (2022), the United States Supreme Court held that discretionary licensing systems for carrying guns in public cannot be used going forward. The Supreme Court stated that the Second Amendment requires that state law must provide clear and objective criteria for when licenses to carry firearms in public will be granted. Moreover, after *Bruen*, the Second Amendment requires that if an applicant meets the statutory criteria that have been established by the state legislature, then a license to carry a concealed weapon in public “shall” be granted.

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The Supreme Court’s *Bruen* decision represents a very significant and disruptive change for our State. In the wake of *Bruen*, many more people are applying for licenses to carry a firearm. Under *Bruen*, those licenses shall be granted unless there is an objective statutory basis requiring denial. This will result in a significant increase in the presence of firearms in public, with more individuals carrying concealed weapons in Hawai‘i than ever before in our State’s history. This presents serious challenges for public health and safety. This bill is an effort to address these challenges in the post- *Bruen* legal landscape.

Gun violence presents an urgent public-health issue, and even after the Supreme Court’s decision in *Bruen*, there are still a number of important tools available to address the serious and increasing risks posed by firearms and gun violence. States have the authority to enact “a ‘variety’ of gun regulations,” *Bruen*, 142 S. Ct. at 2162 (Kavanaugh, J., concurring), such as prohibiting the carrying of firearms in sensitive locations and adopting laws to ensure that those who carry firearms are “law-abiding, responsible citizens.” *Id.* at 2133, 2138.

At a fundamental level, this bill is intended to do two things.

*First*, some existing provisions of chapter 134, HRS, can no longer be applied going forward, and should be reframed to address the immediate effects of the Supreme Court’s decision in *Bruen*. The bill would update and

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revise these provisions to preserve the intent and purpose of chapter 134, HRS, to the extent possible. For example, the bill would clarify the legal standards and criteria that will be applied when a person applies for a license to carry a firearm in public.

*Second*, the bill identifies policies that we believe would help address the significant risks presented by the increased public carrying of firearms.

As explained in greater detail below, this bill would:

- Prohibit carrying or possessing a firearm in certain sensitive locations;
- Require a person stopped by a law enforcement officer to inform the law enforcement officer if they are carrying a concealed firearm;
- Prohibit leaving an unsecured firearm in a vehicle unattended;
- Prohibit people carrying a firearm from consuming alcohol, consuming a controlled substance, being under the influence of alcohol, or being under the influence of a controlled substance;
- Prohibit carrying or possessing a firearm on private property open to the public without authorization;

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- Require the Department of the Attorney General to publish an annual report regarding licenses to carry firearms;
- Revise, clarify, and focus Hawaii's mental-health disqualification for firearms possession;
- Protect public safety by ensuring that firearms are not possessed or carried by those who lack the essential character or temperament necessary to be entrusted with a firearm;
- Add new education and training requirements for applicants for a license to carry a firearm in public;
- Clarify that when a permit to acquire a firearm or a license to carry a firearm is denied, the applicant should be given reasons for the denial and will have a right to a contested case hearing;
- Prohibit a person carrying a firearm in public pursuant to a license from carrying more than one firearm on their person at one time;
- Disqualify individuals who have been convicted of a violent misdemeanor crime or a crime relating to firearms from

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possessing firearms for 20 years following the conviction and maintain Hawaii's lifetime prohibition on possessing firearms for persons convicted of a felony; and

- Adjust certain regulatory fees relating to firearms.

\* \* \*

**The bill would prohibit carrying or possessing a firearm in certain sensitive locations (section 2, section 134-A, HRS, page 3, line 16, through page 10, line 9). These include the following locations:**

- State and local government buildings;
- Schools, colleges, and universities, including research facilities;
- Public or private hospitals, mental health facilities, nursing homes, clinics, medical offices, urgent care facilities, and other places at which medical or health services are customarily provided;
- Bars and restaurants serving alcohol;
- Stadiums, movie theaters, concert halls, and places at which a professional, collegiate, high school, amateur, or student sporting event is being held;

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- Prisons and jails;
- Public libraries, including including buildings, facilities, meeting rooms, spaces used for community programming, and adjacent grounds;
- Beaches, playgrounds, state monuments, and other state and county parks;
- Shelters, residential, and programmatic facilities operated by a government entity or charitable organization serving unhoused persons, victims of domestic violence, or children, including children involved in the juvenile justice system;
- Voting service centers and other polling places;
- Banks;
- Places, facilities, or vehicles used for public transportation or public transit, including buses, bus terminals (but not including bus stops located on public sidewalks), trains, rail stations, and airports;
- Amusement parks, aquariums, carnivals, circuses, fairs, museums, water parks, and zoos; and

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- Any public gathering, public assembly, or special event conducted on property open to the public, including but not limited to a demonstration, march, rally, vigil, protest, picketing, or other public assembly, that requires the issuance of a permit from a federal, state, or local government and the sidewalk or street immediately adjacent to the public gathering, public assembly, or special event and within one thousand feet from the public gathering, public assembly, or special event; provided that there are signs clearly and conspicuously posted at visible places along the perimeter of the public gathering, public assembly, or special event.

These provisions are intended to protect particularly sensitive locations from the risks of gun violence. These locations fall into three general categories: high-density locations; locations with vulnerable populations; and locations of governmental activity. Parking areas adjacent to the sensitive locations identified above are also deemed sensitive locations where possessing firearms is prohibited. These prohibitions do not apply to law enforcement and authorized security guards, and are subject to various affirmative defenses.

The U.S. Supreme Court has made clear that the Second Amendment does not prohibit states from prohibiting carrying firearms in “sensitive locations.” The collection of sensitive locations defined in the bill is

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in line with the set of sensitive locations that a number of other states have identified in recent legislation. Although many states protect sensitive locations from firearms, Hawai‘i currently has no such law in place. We believe these provisions are legally appropriate and are grounded in longstanding history and tradition—as required by the legal test the Supreme Court established in *Bruen*.

This prohibition would not apply to law enforcement officers.

**The bill would require a person carrying a firearm in public pursuant to a license to maintain possession of the license and proof that the firearm being carried is properly registered (section 2, section 134-B(a), HRS, page 10, line 11, through page 11, line 4).** This provision is intended to promote public safety by making sure that those who carry firearms pursuant to a license comply with registration and licensing requirements. Many states have established similar requirements for licensees.

**The bill would require a person stopped by a law enforcement officer to inform the law enforcement officer if they are carrying a concealed firearm (section 2, section 134-B(b), HRS, page 11, lines 5-20).** This provision is intended to protect the public, protect law-enforcement-officer safety, promote situational awareness during investigatory stops, and avoid the risks of escalation. Many states have already established similar public safety requirements. *See, e.g.*, N.C. Gen. Stat. § 14-415.11(a) (“[Licensee] shall carry the permit together with valid identification whenever the person is

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carrying a concealed handgun, shall disclose to any law enforcement officer that the person holds a valid permit and is carrying a concealed handgun when approached or addressed by the officer, and shall display both the permit and the proper identification upon the request of a law enforcement officer.”); Alaska Stat. Ann. § 11.61.220 (requiring that a person must “immediately inform the peace officer of [firearm] possession” if stopped).

**The bill would prohibit leaving an unsecured firearm in a vehicle unattended (section 2, section 134-C, HRS, page 12, lines 1-19).** A significant concern associated with the increased public carry of firearms is the increased risk of theft of firearms from automobiles. *See* Megan J. O’Toole et al., *Gun Thefts from Cars: The Largest Source of Stolen Guns*, Everytown Research & Policy (May 9, 2022), <https://everytownresearch.org/gun-thefts-from-cars-the-largest-source-of-stolen-guns> (reporting, based on FBI crime data, that “gun thefts from cars are now the largest source of stolen guns—one that continues rising in parallel with rising rates of gun sales and violence”).

Under this provision, a person leaving a firearm inside a vehicle unattended would be required to securely lock the firearm in a gun safe or other secure container within the vehicle that is out of sight from outside of the vehicle. This provision is similar to laws that have been enacted in a number of other states, including New York, California, and Connecticut. *See, e.g.*, N.Y. Penal Law § 265.45; Conn. Gen. Stat. Ann. § 29-38g(a)(1) (“No person shall store or keep any pistol or revolver in any motor vehicle

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that is unattended unless such pistol or revolver is in the trunk, a locked safe or locked glove box.”); Cal. Pen. Code § 25140 (“[A] person shall, when leaving a handgun in an unattended vehicle, lock the handgun in the vehicle’s trunk, lock the handgun in a locked container and place the container out of plain view, lock the handgun in a locked container that is permanently affixed to the vehicle’s interior and not in plain view, or lock the handgun in a locked toolbox or utility box.”).

This provision would not apply to law enforcement officers.

**The bill would prohibit people carrying a firearm from consuming alcohol, consuming a controlled substance, being under the influence of alcohol, or being under the influence of a controlled substance (section 2, section 134-D, HRS, page 12, line 20, through page 13, line 19).** This provision is intended to combat the very serious public health risks that are presented when intoxicated persons carry or use firearms. Research demonstrates that “people who abuse alcohol or illicit drugs are at an increased risk of committing acts of violence,” and “[d]rug and alcohol use by domestic abusers has been strongly linked with the perpetration of fatal and non-fatal domestic violence.” D.W. Webster & J.S. Vernick, *Keeping Firearms from Drug and Alcohol Abusers*, 15 *Injury Prevention* 425 (2009); *see also* B.G. Carr et al., *A Randomised Controlled Feasibility Trial of Alcohol Consumption and the Ability to Appropriately Use a Firearm*, 15 *Injury Prevention* 409, 409 (2009) (concluding that “[i]ntoxicated subjects were less accurate, slower

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to fire in reaction time scenarios, and quicker to fire in scenarios requiring judgement relative to controls” and determining that “[a]n association between firearm injury and heavy alcohol consumption has been demonstrated”).

Notably, “studies consistently reported that alcohol use was significantly associated with the possession of firearms, the ownership of firearms, and the use of firearm as a suicide means, and that the association was stronger for heavy alcohol use.” Charles C. Branas et al., *Alcohol Use and Firearm Violence*, 38 *Epidemiologic Reviews* 32, 43-44 (2016). Moreover, “an overwhelming proportion (70%) of [intimate-partner] homicide perpetrators were under the influence of substances when the crime occurred, . . . and the use of alcohol is a strong predictor of intimate terrorism of women.” Darryl W. Roberts, *Intimate Partner Homicide: Relationships to Alcohol and Firearms*, 25 *J. Contemp. Crim. Just.* 67, 70 (2009).

The majority of states either prohibit carrying a firearm while under the influence of alcohol or a controlled substance, prohibit carrying a firearm while consuming alcohol or a controlled substance, or both. Hawai‘i currently has no law prohibiting either.

**The bill would prohibit carrying or possessing a firearm on private property open to the public without authorization (section 2, section 134-E, HRS, page 13, line 20, through page 15, line 8).** The bill would create a “default rule” that a person may not carry firearms on other peoples’ private property without express permission of the owner or manager of the property. The purpose of this

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provision is to reduce the risks of gun violence on private property, to reduce the likelihood of armed confrontations, and to respect the right of private entities and property owners to decide for themselves whether to allow the carrying of firearms on their property.

This is similar to laws adopted in New York and New Jersey in 2022. *See* N.Y. Penal Law § 265.01-d(1) (“[a] person is guilty of criminal possession of a weapon in a restricted location when such person possesses a firearm, rifle, or shotgun and enters into or remains on or in private property where such person knows or reasonably should know that the owner or lessee of such property has not permitted such possession by clear and conspicuous signage indicating that the carrying of firearms, rifles, or shotguns on their property is permitted or has otherwise given express consent.”); N.J. Stat. Ann. § 2C:58-4.6(a)(24) (prohibiting carrying a firearm onto “private property, including but not limited to residential, commercial, industrial, agricultural, institutional or undeveloped property, unless the owner has provided express consent or has posted a sign indicating that it is permissible to carry on the premises a concealed handgun”); *see also* Alaska Stat. § 11.61.220(a) (prohibiting possession of a firearm “that is concealed on the person within the residence of another person unless the person has first obtained the express permission of an adult residing there to bring a concealed deadly weapon within the residence”).

Under this provision, an owner or operator of private property may signify authorization for others to carry a firearm on their property by providing written or verbal

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authorization, or by posting a conspicuous sign indicating that carrying or possessing a firearm is authorized. To be subject to this provision, the private property must be “open to the public”—this includes places like malls, hotels, other retail establishments, etc.

Consistent with this provision, survey data indicates that most people would prefer that the default rule be that guns should not be carried on others’ private property without their express consent. As one recent study found, “a substantial and statistically significant majority of Americans reject the default right to carry weapons onto other people’s residences, unoccupied rural land, retail establishments and businesses.” Ian Ayres & Spurthi Jonnalagadda, *Guests with Guns: Public Support for “No Carry” Defaults on Private Land*, 48 *Journal of Law, Medicine & Ethics* 183, 189 (2020).

In light of the above, it appears that of the two possible alternatives for a rule like this—(1) a rule *allowing* the concealed carrying of firearms on others’ private property unless the property owners take affirmative steps to expressly deny consent or (2) a rule that *prohibits* concealed carry of firearms on others’ private property unless property owners expressly *grant* consent—most people would prefer option (2). As noted above, a central purpose of this provision is to protect the important right of owners and operators of private property to decide for themselves whether they want to allow other people to carry firearms on their property.

**The bill would require the Department of the Attorney General to publish an annual report regarding**

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**licenses to carry firearms (section 2, section 134-F, HRS, page 15, line 9, through page 16, line 6).**

**The bill would establish the offense of failure to conceal a firearm by a concealed carry licensee (section 2, section 134-G, HRS, page 16, line 7, through page 17, line 2).** The bill would make it a petty misdemeanor for a person to be carrying a firearm pursuant to a license issued under section 134-9 and to intentionally, knowingly, or recklessly cause alarm to another person by failing to conceal the firearm.

**The bill would revise, clarify, and focus Hawaii’s mental-health disqualification for firearms possession (section 6, section 134-7(c), HRS, page 35, line 1, through page 36, line 13).** Currently, section 134-7(c)(3), HRS, prohibits persons “diagnosed as having a significant behavioral, emotional, or mental disorders [sic] as defined by the most current diagnostic manual of the American Psychiatric Association or for treatment for organic brain syndromes” from possessing firearms. The bill would replace the current disqualifier provision with a new provision establishing that a person shall not possess a firearm if they have been “diagnosed with or treated for a medical, behavioral, psychological, emotional, or mental condition or disorder that causes or is likely to cause impairment in judgment, perception, or impulse control to an extent that presents an unreasonable risk to public health, safety, or welfare if the person were in possession or control of a firearm or ammunition[.]” The proposed revision is intended to update the statutory language to create a more targeted provision that focuses on reducing risks to public welfare. Additionally, the term “organic

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brain syndrome” is no longer commonly used. *See, e.g.,* Donald W. Black, M.D. & Jon E. Grant, M.D., M.P.H., J.D., *The Essential Companion to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* 360 (2014).

The wording of this provision is similar to an analogous Texas statute. *See* Tex. Gov’t Code § 411.172(d) (disqualification for license to carry based on “diagnos[is] by a licensed physician as suffering from a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability”).

**The bill would protect public safety by ensuring that firearms are not possessed or carried by those who lack the essential character or temperament necessary to be entrusted with a firearm (section 4, page 25, line 15, through page 27, line 4, and section 7, page 41, lines 10-12; page 42, lines 13-15; and page 50, line 12, through page 51, line 15). The bill provides that “[i]n determining whether a person lacks the essential character or temperament necessary to be entrusted with a firearm, the issuing authority shall consider whether the person poses a danger of causing a self-inflicted bodily injury or unlawful injury to another person, as evidenced by:**

- (1) Information from a healthcare provider indicating that the person has had suicidal or homicidal thoughts or tendencies within the preceding five years;

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- (2) Statements by the person indicating dangerousness or violent animus towards one or more individuals or groups, including but not limited to groups based on race, color, national origin, ancestry, sex, gender identity, gender expression, sexual orientation, age, disability, religion, or other characteristic, of a nature or to an extent that would objectively indicate to a reasonable observer that it would not be in the interest of the public health, safety, or welfare for the person to own, possess, or control a firearm or ammunition; or
- (3) Other information that would lead a reasonable, objective observer to conclude that the person presents a danger to the community or intends or is likely to use a firearm for an unlawful purpose or in an unlawful manner.”

**The bill would add new education and training requirements for applicants for a license to carry a firearm in public (section 7, section 134-9, HRS, page 47, line 8, through page 48, line 21).** This includes components on firearm safety, firearm handling, shooting technique, safe storage, legal methods to transport firearms and secure firearms in vehicles, laws governing places in which persons are prohibited from carrying a firearm, firearm usage in low-light situations, situational awareness and conflict management, and laws governing firearms,

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including information regarding the circumstances in which deadly force may be used for self-defense or the defense of another, mental health and mental health resources, as well as a live-fire shooting exercise on a firing range, with a demonstration by the applicant of safe handling of (and shooting proficiency with) each firearm that the applicant is applying to be licensed to carry in public. Increased education and training is expected to play an important role in mitigating risks associated with the public carry of firearms. This provision is intended to align with recent reforms in several other states.

The bill would also adjust the duration of a license to carry a firearm from one year to four years. *See* Section 7, section 134-7(m), HRS, page 54, lines 2-3 (providing that “[u]nless renewed, a concealed or unconcealed license shall expire four years from the date of issue”).

The bill also provides that a concealed carry license is valid throughout the State, rather than being valid only in the particular county in which it was issued. *See* Section 7, section 134-9(a), HRS, page 41, lines 1-4.

**The bill would clarify that when a permit to acquire a firearm or a license to carry a firearm is denied, the applicant should be given reasons for the denial and will have a right to a contested case hearing (section 4, section 134-2(i) and (k), HRS, page 31, lines 14-19, and page 33, lines 3-14; section 7, section 134-9(j) and (k), HRS, page 52, line 1, through page 53, line 9). This is intended to ensure efficient and fair administrative processes for applicants.**

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**The bill would prohibit a person carrying a firearm in public pursuant to a license under section 134-9 from carrying more than one firearm on their person at one time (section 7, section 134-9(q), HRS, page 55, lines 12-15).** This provision is intended to address the risks to public health and safety associated with carrying multiple firearms in public without impairing the ability of a law-abiding, responsible individual to engage in effective self-defense with a firearm.

**The bill would disqualify individuals who have been convicted of a nonfelony crime relating to firearms from possessing firearms for 20 years following the conviction (section 6, section 134-7(h), HRS, page 39, line 18, through page 40, line 6).** Under current law, felonies and certain other crimes result in an indefinite disqualification from possessing firearms. The bill would modestly expand the set of crimes that trigger a disqualification from firearms possession and establish a category of firearms crimes that also, upon conviction, result in disqualification. These provisions are intended to reduce the risks to public health and safety posed by armed individuals who have a track record of dangerous criminal conduct—rather than being responsible, law-abiding gun owners. The core purpose is to ensure that those who carry guns are responsible, law-abiding gun owners. With respect to misdemeanor convictions, the bill would revise the length of the firearms prohibition associated with such convictions from an indefinite disqualification to a 20-year disqualification. In other states, qualifying misdemeanor convictions generally result in prohibitions on firearms possession that range from 3-20 years. The

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bill would maintain Hawaii's indefinite prohibition on firearms possession by felons, which parallels federal law.

**The bill would adjust certain regulatory fees relating to firearms (section 7, section 134-9(i), HRS, page 51, lines 16-21, and section 7, section 134-9(p), HRS, page 55, lines 5-11).** The bill would provide for a nonrefundable fee of \$150 for an application to carry a firearm pursuant to section 134-9, HRS, and would establish a nonrefundable fee of \$50 for a license renewal application under section 134-9, HRS. These revisions are warranted because the prior fee (\$10 for a license issued under section 134-9, HRS) was set decades ago and it should be adjusted to reflect inflation and increased costs, including costs associated with background checks and investigations and additional procedures established in this bill. These fees shall be chargeable by and payable to the appropriate county and shall be used for expenses related to police services.

These fees are comparable to fees established in a number of other states. *See, e.g.*, N.J. Stat. Ann. § 2C:58-4 (New Jersey: “[e]ach application [for a permit to carry handguns] shall be accompanied by a \$200 application fee”); Mass. Gen. Laws Ann. ch. 140, § 131(i) (Massachusetts: “[t]he fee for the application [to carry a firearm] shall be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial”); Okla. Stat. tit. 21, §§ 1290.5 and 1290.12 (Oklahoma: \$100 application fee and \$85 renewal fee); Tenn. Code Ann. § 39-17-1351 (Tennessee: \$100 application fee).

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The bill would provide for a waiver of the fees upon a showing of financial hardship by the applicant. Page 55, lines 9-11.

\* \* \*

As outlined above, the Department strongly supports this bill. The bill will help to maintain the longstanding public policy and legislative intent of chapter 134, HRS, amid a changing legal landscape following recent United States Supreme Court decisions.

Thank you for your consideration of this important measure.

**COMPLAINT EXHIBIT 3 — SENATE  
CONCURRENT RESOLUTION NO. 42**

THE SENATE  
THIRTIETH LEGISLATURE, 2019  
STATE OF HAWAII  
S.C.R. NO. 42  
MAR 05 2019

**SENATE CONCURRENT RESOLUTION**

URGING THE UNITED STATES CONGRESS TO PROPOSE AND ADOPT A PROPOSED AMENDMENT TO THE UNITED STATES CONSTITUTION PURSUANT TO ARTICLE V OF THE UNITED STATES CONSTITUTION TO CLARIFY THE CONSTITUTIONAL RIGHT TO BEAR ARMS.

WHEREAS, the Second Amendment of the United States Constitution reads: “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.”; and

WHEREAS, this language has created considerable debate regarding the constitutional provision’s intended scope; and WHEREAS, some believe that this constitutional provision creates an individual constitutional right for citizens of the United States; and

WHEREAS, under this “individual right theory”, the United States Constitution restricts legislative bodies from prohibiting firearm possession, or at the very least, the Second Amendment renders prohibitory and restrictive regulation presumptively unconstitutional; and

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WHEREAS, however, others contend that the prefatory language of “a well regulated militia” indicates that the framers of the United States Constitution intended only to restrict the United States Congress from legislating away a state’s right to self-defense; and

WHEREAS, under this “collective rights theory”, the Second Amendment asserts that United States citizens do not have an individual right to possess guns and that local, state, and federal legislative bodies possess the authority to regulate firearms without implicating a constitutional right; and

WHEREAS, these two interpretations of the Second Amendment have been considered and adopted by the United States Supreme Court; and

WHEREAS, in 1939, the United States Supreme Court adopted a collective rights approach under *United States v. Miller*, 307 U.S. 174 (1939) by determining that the United States Congress could regulate a sawed-off shotgun that had moved in interstate commerce under the National Firearms Act of 1934; and

WHEREAS, the *Miller* Court determined the evidence did not suggest that the shotgun had a reasonable relationship to the preservation or efficiency of a well-regulated militia; and

WHEREAS, the Court further held that the framers of the United States Constitution included the Second Amendment to ensure the effectiveness of the military; and

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WHEREAS, the precedent established under *United States v. Miller* stood for nearly seventy years until the United States Supreme Court revisited the issue in 2008 under *District of Columbia v. Heller*, 554 U.S. 570 (2008); and

WHEREAS, the plaintiff in *District of Columbia v. Heller* challenged the constitutionality of the District of Columbia handgun ban, which is a statute that stood for thirty-two years; and

WHEREAS, the *Heller* Court held that the Second Amendment established an individual right for United States citizens to possess firearms and struck down the District of Columbia handgun ban as a violation of that right; and

WHEREAS, the majority in *Heller* carved out *Miller* as an exception to the general rule that United States citizens may possess firearms by claiming that law abiding citizens cannot use sawed-off shotguns for any law abiding purpose; and

WHEREAS, thus, the United States Supreme Court has revitalized the discussion of whether the Second Amendment is a collective or individual constitutional right; and

WHEREAS, in light of the numerous tragic mass shootings at schools, work places, and public events, this body believes that it is necessary to repeal or amend the Second Amendment of the United States Constitution; now, therefore,

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BE IT RESOLVED by the Senate of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2019, the House of Representatives concurring, that the United States Congress is urged to propose and adopt a proposed amendment to the United States Constitution pursuant to article V of the United States Constitution to clarify the constitutional right to bear arms; and

BE IT FURTHER RESOLVED that the United States Congress is requested to consider and discuss whether the Second Amendment of the United States Constitution should be repealed or amended to clarify that the right to bear arms is a collective, rather than individual, constitutional right; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the President Pro Tempore of the United States Senate, Speaker of the United States House of Representatives, Members of the Hawaii congressional delegation, and the Governor.

OFFERED BY: /s/ \_\_\_\_\_

/s/ \_\_\_\_\_

/s/ \_\_\_\_\_

/s/ \_\_\_\_\_

/s/ \_\_\_\_\_

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**COMPLAINT EXHIBIT 4 — DECLARATION  
OF PLAINTIFF JASON WOLFORD**

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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

Civil Action No. \_\_\_\_\_

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF THE STATE  
OF HAWAII. MAUI COUNTY,

*Defendants.*

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**DECLARATION OF PLAINTIFF JASON WOLFORD**

**COMES NOW**, Jason Wolford, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii, Maui county and I reside in Lahaina and am competent to provide this declaration. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;
2. All statements made about me in the complaint in this action are true and accurate;
3. I am a member of the Hawaii firearms Coalition (HIFICO);
4. I am a law abiding citizen;
5. I am not legally prohibited from acquiring, owning, possessing, carrying<sup>1</sup> or lawfully using arms including firearms under current Hawaii and federal law and also under the proposed SB1230 HRS enactments;
6. I own several firearms, lawfully, and I am familiar with firearms and have the following training: USCCA Instructor-

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1. Except as indicated here specifically with regard not to me, but to the places I intend to carry concealed with a permit and activities I intend to perform but for the enactment of SB1230.

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Training Counselor. Concealed Carry and Home Defense Fundamentals, Countering the Mass Shooter Threat, Emergency First Aid, Defensive Shooting Fundamentals (DSF) level 1, NRA Instructor-Pistol; Rifle; Shotgun; Chief Range Safety Officer, SASS Range Safety Officer; SABRE Civilian Pepper Spray Instructor;

7. I have a concealed carry permit issued from the county of Maui in 2022, a redacted copy of which is appended to this declaration, and will renew that one and will obtain another concealed carry permit once SB1230's concealed carry permit laws go into effect in January 2024, and I have been, am and expect to be fully qualified to obtain another concealed carry permit and have not been, am not now, nor do I expect to be disqualified from owning, possessing or carrying arms nor from obtaining a renewed or new concealed carry permit in the state of Hawaii or elsewhere ;
8. I have in the past regularly frequented the following beaches listed below, and have, as a cany concealed license holder since 2022, and will in the future, own, possess, and carry a firearm with my concealed carry permit. I have every intention and desire to continue to carry my personal firearm in and at all these locations in the future, and places like them, but I will decline to do so because of the credible fear of arrest and prosecution after July 1, 2023,

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the effective date of SB1230. I intend to and will use his carry concealed permit to carry arms concealed in the locations referenced herein, but for the implementation and enactment of SB1230;

- A) I frequent Kahana Bay which is only a few hundred yards from where I live, and I have frequented it about once a month in the past while carrying a concealed weapon and my permit. Kahana bay is a moderately frequented beach and moderately populated, in front of condominiums and near residential areas. I will and would continue to frequent this beach in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;
- B) I frequent Kaanapali Beach which is approximately 4 miles from my house and I have, in the past, frequented this beach about two times a month while carrying a concealed weapon and my carry concealed weapon permit. Kaanapali beach is a very populated large beach in front of many resorts. I will and would continue to frequent Kaanapalibeachwhilearmedwithaconcealed firearm and with my concealed firearm permit but for the enactment of SB1230 and the likely criminal prosecution;
- C) I frequent Kapalua beach which is only 1.7 miles from where I live, and I have frequented it about once every two months in the past

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while carrying a concealed weapon and my permit. Kapalua bay is a very populated and frequented beach with a mixture of locals and tourists. I will and would continue to frequent this beach in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

- D) I frequent Napili bay which is about a mile or so from where I live, and I have frequented it about once every two months in the past while carrying a concealed weapon and my permit. Napili bay is a moderately frequented beach and moderately populated, in front of condominiums and near residential areas. I will and would continue to frequent this beach in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of S81230 and the likely criminal prosecution;
- E. I frequent Launipoko Beach park which is about nine miles from where I live, and I have frequented it about twice a year and for special occasions in the past while carrying a concealed weapon and my permit. Launipoko Beach park is a very popular and populated beach. I will and would continue to frequent this beach in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

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9. I have in the past regularly frequented the following areas which are listed as a “park”, has in the past, as a carry concealed license holder since 2022, carried concealed with his permit in these areas listed herein, and fully intends to in the future, own, possess, and carry a firearm with my concealed carry permit in these locations. I have every intention and desire to continue to carry my personal firearm in and at all these locations, and locations like them, with a permit, in the future but he will decline to do so because of the credible fear of arrest and prosecution after July 1, 2023, the effective date of SB1230;
  - A) I frequent Launipoko Beach park which is about nine miles from where I live, and I have frequented it about twice a year and for special occasions in the past while carrying a concealed weapon and my permit. Launipoko Beach park is a very popular and populated beach. I will and would continue to frequent this beach in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution. I go to this park, beach park, for water sports and for special occasions;
  - B) I frequent Kahekili Beach park which is about three miles from where I live, and I have frequented it about once a month and for exercise, family time, special occasions and water sports in the past while carrying a concealed weapon and my permit. Kahekili

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Beach park is a very popular and busy park and beach, with a boardwalk and behind local resorts. I will and would continue to frequent this beach in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

10. I have in the past regularly frequented the following areas which are, according to information and belief, restaurants that serves alcohol or intoxicating liquor as defined in section 281-1 for consumption on the premises, and I have, in the past carried a concealed arm with my permit in the locations referenced herein, and I intend to, as a carry concealed license holder since 2022, in the future, own, possess, and carry a firearm with my concealed cany permit in these locations and locations like them. I have every intention and desire to continue to carry my personal firearm in and at all these locations, and locations like them, in the future but I will decline to do so because of the credible fear of arrest and prosecution after July1, 2023, the effective date of SB1230;
- A) I frequent Monkey Pod restaurant in Kaanapali about once every three months, and I have frequented it in the past, about once every three months, while carrying a concealed weapon and my permit. Monkey pod, I believe, sells liquor, though I do not consume any while carrying a weapon. I will and would continue to frequent this

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restaurant in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

- B) I frequent Ruth's Chris restaurant about once a year for special occasions, and I have frequented it in the past, while carrying a concealed weapon and my permit. Ruth's Chris, I believe sells liquor, though I do not consume any while carrying a weapon. I will and would continue to frequent this restaurant in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;
  - C) I frequent Miko's restaurant in Wailuku about every two months, and I have frequented it in the past, while carrying a concealed weapon and my permit. Miko's, I believe, sells liquor, though I do not consume any while carrying a weapon. I will and would continue to frequent this restaurant in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;
11. I have in the past regularly frequented the following areas which are, according to information and belief, banks or financial institutions as defined in section 211D-1, and have in the past carried a concealed arm with my permit and intend to, as a carry concealed license holder since 2022, in the future, own,

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possess, and carry a firearm with my concealed carry permit in these locations and locations like them. I have every intention and desire to continue to carry my personal firearm and permit in and at all these locations, and locations like them, in the future but I will decline to do so because of the credible fear of arrest and prosecution after July 1, 2023, the effective date of SB1230;

- A) I have regularly in the past about two times per month gone to First Hawaiian Bank, including specifically, but not limited to the branches at Kahana, Lahaina and Kahului including the parking lot and adjacent areas. I will and would continue to frequent this bank in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;
  - B) I have regularly in the past about two times per month gone to Bank of Hawaii, including specifically, but not limited to the branches at Kahana, Lahaina and Kahului including the parking lot and adjacent areas. I will and would continue to frequent this bank in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;
12. I have in the past regularly frequented the following areas which are, according to information and belief, all other locations considered private

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property, not covered otherwise by HRS 134-A(a) but specifically covered under HRS 134-E that requires private property owners to “opt-in” and post signage allowing the exercise of the Second Amendment right to carry an arm for self- defense or in case of confrontation, and I have carried a concealed arm with a permit in the past and I intend to, as a carry concealed license holder since 2022, in the future, own, possess, and carry a firearm with my concealed carry permit in these locations and similar locations. I have every intention and desire to continue to carry my personal firearm and permit in and at all these locations, and locations like them, in the future but I will decline to do so because of the credible fear of arrest and prosecution after July 1, 2023, the effective date of SB1230;

- A) I have regularly in the past about two times per week gone to one of these locations- Safeway, Island Grocery, Foodland Farms, all in Lahaina and Costco in Kahului, ABC stores in Honokowai, Whaler’s Village in Kahana, Circle K in Maalaea, Ace Hardware, Ross Stores, Zippy’s and Chick-Fil-A, including the parking lot and adjacent areas, and I note that Ace Hardware and Ross Stores share a parking lot with the Maui County Satellite DMV at the Lahaina gateway Center, with a concealed weapon and my concealed carry permit. I will and would continue to frequent these locations in the future armed with a concealed firearm

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and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

13. I have in the past regularly frequented adjacent properties and parking lots of all of the above locations with a firearm concealed with my concealed carry permit and fully intend to do so again, but for the enactment of SB1230. Additionally, I have in the past regularly frequented adjacent properties and parking lots while not going to any of the above locations, such as a beach or park or bank or restaurant, but the other location shares an adjacent property or parking lot, and I have carried a concealed weapon with my concealed carry permit and fully intend to do so again in the future, but for the enactment of SB1230.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on June 22, 2022.

/s/ Jason Wolford  
Jason Wolford

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The Licensee identified on the front of this card is hereby authorized to carry the following firearm therefor concealed on the person in

Maui County:

Make Model Year Caliber

Action Serial No.

- Upon contact with a Law Enforcement Officer, you must immediately announce that you are a CCW Licensee and that you are ARMED.
- This license shall be in your possession while carrying a concealed firearm and must be presented to a Law Enforcement Officer upon request.
- This license DOES NOT authorize you to carry or possess any weapon prohibited by State and Federal law.
- This license DOES NOT authorize you to carry your firearm in buildings or establishments that prohibit weapons on the premises.
- This license must be presented with an official form of photo identification (State-issued Driver's License, State Identification Card, Military ID, or U.S. Passport)

**COMPLAINT EXHIBIT 5 — MAP**

A-101	ACE Hardware	B-106A	Maui Bubble Tea
B-106B	Blue Hawaii Spa & Reflexology	A-201/ A-202	Maui Powerhouse Gym
D-101	Central Pacific Bank	E-108	Minit Medical Urgent Care
B-109	Compass	B-110	Moku Roots
B-108	County of Maui DMVL	B-114A- B117	O'Reilly Auto Parts
C-101	Da Shrimp Hale	A-104	Pieology Pizzeria
C-104	Foodland Farms	E-104	Rainbow Dialysis Lahaina
E-106	Galan Sports Chiropractic	B-104	Ross Dress for Less
E-112	Island Cream Co.	B-114	Spectrum
F-101C/ F-101D	Kihei Caffé Lahaina	E-111	Supercuts
B-112	Khloella's Garden	B-119	Teddy's Bigger Burgers
B-113	Local Motion	E-101	The Vitamin Shoppe
B-107	Mahina Maui	F-101A/ F-101B	T-Mobile
B-105A	Management Office	E-107	Verizon



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**COMPLAINT EXHIBIT 6 — DECLARATION  
OF PLAINTIFF ALISON WOLFORD**

Kevin Gerard O'Grady  
Law Office of Kevin O'Grady, LLC  
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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

Civil Action No.

JASON WOLFORD , ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF THE STATE  
OF HAWAII, MAUI COUNTY,

*Defendants.*

June 22, 2023

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**DECLARATION OF  
PLAINTIFF ALISON WOLFORD**

COMES NOW, Alison Wolford, and states as follows:

1. I am a natural person, an adult female, United States of America citizen, resident of the State of Hawaii, Maui County and I reside in Lahaina and am competent to provide this declaration. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;
2. All statements made about me in the complaint in this action are true and accurate;
3. I am a member of the Hawaii firearms Coalition (HIFICO);
4. I am a law abiding citizen;
5. I am not legally prohibited from acquiring, owning, possessing, carrying<sup>1</sup> or lawfully using arms including firearms undercurrent Hawaii and federal law and also under the proposed SB1230 HRS enactments;

---

1. Except as indicated here specifically with regard not to me, but to the places I intend to carry concealed with a permit and activities I intend to perform but for the enactment of SB1230.

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6. I own several firearms, lawfully, and I am familiar with firearms and have the following training: NRA Instructor-Pistol; Rifle; Shotgun; CCW; Chief Range Safety Officer, NRA Refuse to be a Victim; NRA Range Development USCCA Instructor-Concealed Carry Home Defense; Women's Firearms; Training Counselor, USCCA RSO, SASS RSO;
7. I have a concealed carry permit issued from the county of Maui in 2022, a redacted copy of which is appended to this declaration, and will renew that one and will obtain another concealed carry permit once SB1230's concealed carry permit laws go into effect in January 2024, and I have been, am and expect to be fully qualified to obtain another concealed carry permit and have not been, am not now, nor do I expect to be disqualified from owning, possessing or carrying arms nor from obtaining a renewed or new concealed carry permit in the state of Hawaii or elsewhere ;
8. I have in the past regularly frequented the following beaches, parking lots and adjacent areas, listed below, and have, as a carry concealed license holder since 2022, and will in the future, own, possess, and carry a firearm with my concealed carry permit. I have every intention and desire to continue to carry my personal firearm in and at all these locations in the future, and places like them, but I will decline to do so because of the credible fear of arrest and prosecution after July 1, 2023, the effective date of SB1230. I intend to and will

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use his carry concealed permit to carry arms concealed in the locations referenced herein, but for the implementation and enactment of SB1230;

- A) I frequent Kahana Bay, and the adjacent area and parking lot, which is only a few hundred yards from where I live, and I have frequented it about once a month in the past while carrying a concealed weapon and my permit. Kahana bay is a moderately frequented beach and moderately populated, in front of condominiums and near residential areas. I will and would continue to frequent this beach, adjacent area and parking lot, in the future arm and with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;
- B) I frequent Kaanapali Beach, and the adjacent area and parking lot, which is approximately 4 miles from my house and I have, in the past, frequented this beach about two times a month while carrying a concealed weapon and my carry concealed weapon permit. Kaanapali beach is a very populated large beach in front of many resorts. I will and would continue to frequent Kaanapali beach, the adjacent area and parking lot, while arm ed with a concealed firearm and with my concealed firearm permit but for the enactment of SB1230 and the likely criminal prosecution;
- C) I frequent Kapalua beach, adjacent area and parking lot, which is only a 1.7 miles from where I live, and I have frequented it about once every

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two months in the past while carrying a concealed weapon and my permit. Kapalua bay is a very populated and frequented beach with a mixture of locals and tourists. I will and would continue to frequent this beach, adjacent area and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

- D) I frequent Napili bay, adjacent areas and parking lot, which is about a mile or so from where I live, and I have frequented it about once every two months in the past while carrying a concealed weapon and my permit. Napili bay is a moderately frequented beach and moderately populated, in front of condominiums and near residential areas. I will and would continue to frequent this beach, adjacent areas and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;
- E) I frequent Launipoko Beach park, adjacent areas and parking lot, which is about nine miles from where I live, and I have frequented it about twice a year and for special occasions in the past while carrying a concealed weapon and my permit. Launipoko Beach park is a very popular and populated beach. I will and would continue to frequent this beach, adjacent areas and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the

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enactment of SB1230 and the likely criminal prosecution;

9. I have in the past regularly frequented the following areas which are listed as a “park”, has in the past, as a carry concealed license holder since 2022, carried concealed with his permit in these areas listed herein, and fully intends to in the future, own, possess, and carry a firearm with my concealed carry permit in these locations. I have every intention and desire to continue to carry my personal firearm in and at all these locations, and locations like them, with a permit, in the future but he will decline to do so because of the credible fear of arrest and prosecution after July 1, 2023, the effective date of SB1230;
  - A) I frequent Launipoko Beach park, adjacent area and parking lot, which is about nine miles from where I live, and I have frequented it about twice a year and for special occasions in the past while carrying a concealed weapon and my permit. Launipoko Beach park is a very popular and populated beach. I will and would continue to frequent this beach, adjacent area and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution. I go to this park, beach park, for water sports and for special occasions;
  - B) I frequent Kahekili Beach park, adjacent areas and parking lot, which is about three miles from where I live, and I have frequented it about once a month and for exercise, family time, special occasions

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and water sports in the past while carrying a concealed weapon and my permit. Kahekili Beach park is a very popular and busy park and beach, with a boardwalk and behind local resorts. I will and would continue to frequent this beach, adjacent areas and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

10. I have in the past regularly frequented the following areas which are, according to information and belief, restaurants that serves alcohol or intoxicating liquor as defined in section 281-1 for consumption on the premises, and I have, in the past carried a concealed arm with my permit in the locations referenced herein, and I intend to, as a carry concealed license holder since 2022, in the future, own, possess, and carry a firearm with my concealed carry permit in these locations and locations like them. I have every intention and desire to continue to carry my personal firearm in and at all these locations, and locations like them, in the future but I will decline to do so because of the credible fear of arrest and prosecution after July 1, 2023, the effective date of SB1230;

A) I frequent the Monkey Pod, adjacent areas and parking lot, restaurant in Kaanapali about once every three months, and I have frequented it in the past, about once every three months, while carrying a concealed weapon and my permit. Monkey pod, I believe, sells liquor, though I do not consume any while carrying a weapon. I will

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and would continue to frequent this restaurant, adjacent area and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

B) I frequent Ruth's Chris restaurant and adjacent area and parking lot about once a year for special occasions, and I have frequented it in the past, while carrying a concealed weapon and my permit. Ruth's Chris, I believe, sells liquor, though I do not consume any while carrying a weapon. I will and would continue to frequent this restaurant, adjacent area and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

C) I frequent Miko's restaurant, adjacent area and parking lot in Wailuku about every two months, and have frequented it in the past, while carrying a concealed weapon and my permit. Miko's, I believe, sells liquor, though I do not consume any while carrying a weapon. I will and would continue to frequent this restaurant, adjacent area and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

11. I have in the past regularly frequented the following areas which are, according to information and belief, banks or financial institutions as defined in section 211D-1, and has in the past carried a

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concealed arm with my permit and intend to, as a carry concealed license holder since 2022, in the future, own, possess, and carry a firearm with my concealed carry permit in these locations and locations like them. I have every intention and desire to continue to carry my personal firearm and permit in and at all these locations, and locations like them, in the future but I will decline to do so because of the credible fear of arrest and prosecution after July 1, 2023, the effective date of SB1230;

- A) I have regularly in the past about two times per month gone to First Hawaiian Bank, adjacent areas and parking lot, including specifically, but not limited to the branches at Kahana, Lahaina and Kahului including the parking lot and adjacent areas. I will and would continue to frequent this bank, adjacent area and parking lot in the future armed with a concealed &eau' and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;
- B) I have regularly in the past about two times per month gone to Bank of Hawaii, and adjacent area and parking lot, including specifically, but not limited to the branches at Kahana, Lahaina and Kahului including the parking lot and adjacent areas. I will and would continue to frequent this bank, adjacent area and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

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12. I have in the past regularly frequented the following areas which are, according to information and belief, all other locations considered private property, not covered otherwise by HRS 134-A(a) but specifically covered under HRS 134-E that requires private property owners to “opt-in” and post signage allowing the exercise of the Second Amendment right to carry an arm for self- defense or in case of confrontation, and I have carried a concealed arm with a permit in the past and I intend to, as a carry concealed license holder since 2022, in the future, own, possess, and carry a firearm with my concealed carry permit in these locations and similar locations. I have every intention and desire to continue to carry my personal firearm and permit in and at all these locations, and locations like them, in the future but I will decline to do so because of the credible fear of arrest and prosecution after July 1, 2023, the effective date of SB1230;
- A) I have regularly in the past about two times per week gone to one of these locations, including adjacent areas and parking lots- Safeway, Island Grocery, Foodland Farms, all in Lahaina and Costco in Kahului, ABC stores in Honokowai, Whaler’s Village in Kahana, Circle K in Maalaea, Ace Hardware, Ross Stores, Zippy’s and Chick-Fil-A, including the parking lot and adjacent areas, and I note that Ross Stores and Ace Hardware shares a parking lot with the Maui County satellite DMV office at the Lahaina gateway Center, with a concealed weapon and my concealed carry

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permit. I will and would continue to frequent these locations in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

12. I have in the past regularly frequented adjacent properties and parking lots of all of the above locations with a firearm concealed with my concealed carry permit and fully intend to do so again, but for the enactment of SB1230. Additionally, I have in the past regularly frequented adjacent properties and parking lots while not going to any of the above locations, such as a beach or park or bank or restaurant, but the other location shares an adjacent property or parking lot, and I have carried a concealed weapon with my concealed carry permit and I fully intend to do so again in the future, but for the enactment of SB1230.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on June 22, 2023.

/s/  
Alison Wolford

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LICENSE TO CARRY CONCEALED FIREARM  
IN MAUI COUNTY ONLY

License No. \_\_\_\_\_ Issued **Sept.** \_\_\_\_\_, 20**22**

**WOLFORD, ALISON**  
whose photograph, thumbprint, and description are on the reverse hereof, is  
hereby granted a license pursuant to Section 134-9 HRS, to carry the following  
firearm:

Caliber: \_\_\_\_\_ Manufacturer: \_\_\_\_\_

Serial No.: \_\_\_\_\_ Type: \_\_\_\_\_

\_\_\_\_\_  
Chief of Police

This license becomes VOID at the expiration of one year from issue date.

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Address: [REDACTED]		Labaina, HI		
HAIR	EYES	HEIGHT	WEIGHT	AGE
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

202a

**COMPLAINT EXHIBIT 7 — DECLARATION  
OF PLAINTIFF ATOM KASPRZYCKI**

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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

Civil Action No.

JASON WOLFORD , ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF THE STATE  
OF HAWAII, MAUI COUNTY,

*Defendants.*

June 22, 2023

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**DECLARATION OF  
PLAINTIFF ATOM KASPRZYCKI**

**COMES NOW**, Atom Kasprzycki, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii, Maui county, and I reside in Lahaina and am competent to provide this declaration. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;
2. All statements made about me in the complaint in this action are true and accurate;
3. I am a member of the Hawaii firearms Coalition (HIFICO);
4. I am a law abiding citizen;
5. I am not legally prohibited from acquiring, owning, possessing, carrying<sup>1</sup> or lawfully using arms including firearms under current Hawaii and federal law and also under the proposed SB1230 HRS enactments;
6. I own several firearms, lawfully, and I am familiar with firearms and have the following training:

---

1. Except as indicated here specifically with regard not to me, but to the places I intend to carry concealed with a permit and activities I intend to perform but for the enactment of SB1230.

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NRA Basic Pistol Safety Course, Certificate of Completion, Concealed Carry Handgun Course, North Carolina, Nebraska Hunter's Education;

7. I have a concealed carry permit issued from the county of Maui in 2022, a redacted copy of which is appended to this declaration, and will renew that one and will obtain another concealed carry permit once SB1230's concealed carry permit laws go into effect in January 2024, and I have been, am and expect to be fully qualified to obtain another concealed carry permit and have not been, am not now, nor do I expect to be disqualified from owning, possessing or carrying arms nor from obtaining a renewed or new concealed carry permit in the state of Hawaii or elsewhere;
  8. I have in the past regularly frequented the following beaches, parking lots and adjacent areas, listed below, and have, as a carry concealed license holder while armed since 2022, and will in the future, own, possess, and carry a firearm with my concealed carry permit. I have every intention and desire to continue to carry my personal firearm in and at all these locations in the future, and places like them, but I will decline to do so because of the credible fear of arrest and prosecution after July 1, 2023, the effective date of SB1230. I intend to and will use my carry concealed permit to carry arms concealed in the locations referenced herein, but for the implementation and enactment of SB1230;
- A) I frequent Kaopala Beach, and the adjacent area and parking lot, across the street from where I live,

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and I have frequented it about once to six times a month in the past while carrying a concealed weapon and my permit. I will and would continue to frequent this beach, adjacent area and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

- B) I frequent Kaanapali Beach, and the adjacent area and parking lot, and I have, in the past, frequented this beach about two times a month to go to restaurants for breakfast and or dinner, and or pick up food, and two to four times a year and also to eat, shop and or swim while carrying a concealed weapon and my carry concealed weapon permit. Kaanapali beach is a very populated large beach in front of many resorts. I will and would continue to frequent Kaanapali beach, the adjacent area and parking lot, while armed with a concealed firearm and with my concealed firearm permit but for the enactment of SB1230 and the likely criminal prosecution;
- C) I frequent Launipoko Beach park, adjacent areas and parking lot, and I have frequented it about once a year and for special occasions in the past while carrying a concealed weapon and my permit. Launipoko Beach park is a very popular and populated beach. I will and would continue to frequent this beach, adjacent areas and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the

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enactment of SB1230 and the likely criminal prosecution;

- D) I frequent DT Fleming beach/park, adjacent areas and parking lot, and I frequent it two to six times a year for events and swimming and I have, in the past, carried a concealed weapon and my concealed carry permit. I will and would continue to frequent this beach, adjacent areas and parking lot, in the future, armed and with my concealed carry permit, but for the enactment of SB1230 and the likely criminal prosecution. This park has a county or state government lifeguard building on the grounds. DT Fleming is both a beach and a park.
9. I have in the past regularly frequented the following areas which are listed as a “park”, have in the past, as a carry concealed license holder since 2022, carried concealed with my permit in these areas listed herein, and fully intends to in the future, own, possess, and carry a firearm with my concealed carry permit in these locations. I have every intention and desire to continue to carry my personal firearm in and at all these locations, and locations like them, with a permit, in the future but will decline to do so because of the credible fear of arrest and prosecution after July1, 2023, the effective date of SB1230;
- A) I frequent Launipoko Beach park, adjacent area and parking lot, and I have frequented it about once a year and for special occasions in the past while carrying a concealed weapon and my

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permit. Launipoko Beach park is a very popular and populated beach. I will and would continue to frequent this beach, adjacent area and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

B) I frequent Lahaina Banyan Court Park, adjacent areas and parking lot, and I have frequented it about six to twenty-four times a year to access restaurants and a cinema, and also go with my office team, in the past while carrying a concealed weapon and my permit. I will and would continue to frequent this park, adjacent areas and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

C) I frequent Lahaina Aquatic Center, which is a county facility and park, adjacent areas and parking lot, and I have frequented it about two to six times a year to meet family members, visit friends, and swim, in the past while carrying a concealed weapon and my permit. I will and would continue to frequent this park, adjacent areas and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

10. I have in the past regularly frequented the following areas which are, according to information

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and belief, restaurants that serve alcohol or intoxicating liquor as defined in section 281-1 for consumption on the premises, and I have, in the past carried a concealed firearm with my permit in the locations referenced herein, and I intend to, as a carry concealed license holder since 2022, in the future, own, possess, and carry a firearm with my concealed carry permit in these locations and locations like them. I have every intention and desire to continue to carry my personal firearm in and at all these locations, and locations like them, in the future but I will decline to do so because of the credible fear of arrest and prosecution after July1, 2023, the effective date of SB1230;

- A) I frequent the Alaloe Lounge, adjacent areas and parking lot, restaurant in Kapalua about once to three times a year, and I have frequented it in the past, while carrying a concealed weapon and my permit. Alaloe Lounge, I believe, sells liquor, though I do not consume any while carrying a weapon. I will and would continue to frequent this restaurant, adjacent area and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;
- B) I frequent Sansei restaurant and adjacent area and parking lot in Lahaina about four to six times a year, and I have frequented it in the past, while carrying a concealed weapon and my permit. Sansei, I believe, sells liquor, though I do not consume any while carrying a weapon. I will and would continue to frequent this restaurant,

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adjacent area and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

- C) I frequent Kihei Cafe Lahaina restaurant, adjacent area and parking lot, in Lahaina, about one to two times a month, and I have frequented it in the past, while carrying a concealed weapon and my permit. This restaurant shares a parking lot with a bank, Spectrum (my internet service provider), and a medical facility, Minit Medical Urgent Care, and the Maui County Department of Motor Vehicles). I will and would continue to frequent this restaurant, adjacent area and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

11. I have in the past regularly frequented the following areas which are, according to information and belief, banks or financial institutions as defined in section 211D-1, and has in the past carried a concealed arm with my permit and intend to, as a carry concealed license holder since 2022, in the future, own, possess, and carry a firearm with my concealed carry permit in these locations and locations like them. I have every intention and desire to continue to carry my personal firearm and permit in and at all these locations, and locations like them, in the future but I will decline to do so because of the credible fear of arrest and prosecution after July 1, 2023, the effective date of SB1230;

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- A) I have regularly in the past about two times per month gone to First Hawaiian Bank, adjacent areas and parking lot, including specifically, but not limited to the branches at Kahana, four to six times a year, Lahaina, twenty-four to thirty-six times a year, and Kahului, four to six times a year, including the parking lot and adjacent areas. I will and would continue to frequent this bank, adjacent area and parking lot in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;
- B) I have regularly in the past about two times per month gone to Bank of Hawaii, and adjacent area and parking lot, including specifically, but not limited to the branches at Kahana, two to six times a year, Lahaina branch two to six times a year including the parking lot and adjacent areas. I will and would continue to frequent this bank, adjacent area and parking lot, in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;
12. I have in the past regularly frequented the following areas which are, according to information and belief, all other locations considered private property, not covered otherwise by HRS 134-A(a) but specifically covered under HRS 134-E that requires private property owners to “opt-in” and post signage allowing the exercise of the Second Amendment right to carry an arm for self- defense or in case of confrontation, and I

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have carried a concealed arm with a permit in the past and I intend to, as a carry concealed license holder since 2022, in the future, own, possess, and carry a firearm with my concealed carry permit in these locations and similar locations. I have every intention and desire to continue to carry my personal firearm and permit in and at all these locations, and locations like them, in the future but I will decline to do so because of the credible fear of arrest and prosecution after July 1, 2023, the effective date of SB1230;

- A) I have regularly in the past about two times per week gone to one of these locations, including adjacent areas and parking lots- Napili market, one to two times a week, Times Supermarket, one to four times a year, Safeway Lahaina three to six times a year, Ace Hardware one to two times a month, HPM Building Supply Lahaina one to three times a year, Lowes four to twelve times a year, Maui Laminates two to six times a year, Whaler's General store, six to twelve times a year which also shares a parking lot with both of my banks, Liberty Dialysis and Maui Brewing Company, Lahaina Gateway Center one to three times a month, as well as Ace Hardware, Kihei Café, Spectrum and all of the entities at Lahaina Gateway Center share a parking lot with the local DMV (Department of Motor Vehicles (see, <https://www.mauicounty.gov/2125/DMV-Wait-Times>, last accessed June 21, 2023, the DMV address is Lahaina Gateway Center 335 Keawe Street, Suite 209, Lahaina, Maui, HI 96761), including the parking lot and adjacent areas, with a concealed weapon and my

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concealed carry permit. I will and would continue to frequent these locations in the future armed with a concealed firearm and with my concealed carry permit but for the enactment of SB1230 and the likely criminal prosecution;

13. I have in the past regularly frequented adjacent properties and parking lots of all of the above locations with a firearm concealed with my concealed carry permit and fully intend to do so again, but for the enactment of SB1230. Additionally, I have in the past regularly frequented adjacent properties and parking lots while not going to any of the above locations, such as a beach or park or bank or restaurant, but the other location shares an adjacent property or parking lot, and I have carried a concealed weapon with my concealed carry permit and I fully intend to do so again the future, but for the enactment of SB1230.
14. I have a private business and am self-employed and I have a team that works for me. I own my own business property. I have many clients. I do not want to post a sign that tells the public that they are authorized to carry a concealed weapon with a permit on my property. I do not want to post a sign that tells the public that they are not authorized to carry a concealed weapon with a permit on my property. I do not wish to be compelled to speak, through the posting of signs related to the exercise of constitutional rights, including specifically the Second Amendment and the can-ying of arms , that

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I either support or oppose the carrying of arms. I wish to remain neutral and I wish that my property remain neutral.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on June 22, 2023.

/s/ \_\_\_\_\_  
Atom Kasprzycki

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LICENSE TO CARRY CONCEALED FIREARM  
IN MAUI COUNTY ONLY

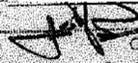
License No. \_\_\_\_\_ Issued Sept., 2022

KASPRZYCKI, Atom

whose photograph, thumbprint, and description are on the reverse hereof, is hereby granted a license pursuant to Section 134-9 HRS, to carry the following firearm:

Caliber: \_\_\_\_\_ Manufacturer: \_\_\_\_\_

Serial No.: \_\_\_\_\_ Type: \_\_\_\_\_

 Chief of Police

This license becomes VOID at the expiration of one year from issue date.

LICENSE TO CARRY CONCEALED FIREARM  
IN MAUI COUNTY ONLY

License No. \_\_\_\_\_ Issued Sept., 2022

KASPRZYCKI, Atom

whose photograph, thumbprint, and description are on the reverse hereof, is hereby granted a license pursuant to Section 134-9 HRS, to carry the following firearm:

Caliber: \_\_\_\_\_ Manufacturer: \_\_\_\_\_

Serial No.: \_\_\_\_\_ Type: \_\_\_\_\_

 Chief of Police

This license becomes VOID at the expiration of one year from issue date.

215a

**COMPLAINT EXHIBIT 8 — DECLARATION OF  
ANDREW NAMIKI ROBERTS ON BEHALF  
OF HAWAII FIREARMS COALITION**

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Hawaii Bar No. 9145  
Alan.alexander.beck@gmail.com

Attorneys for Plaintiffs

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FOR THE DISTRICT OF HAWAII

Civil Action No.

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KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF THE STATE  
OF HAWAII, MAUI COUNTY,

*Defendants.*

June 22, 2022

*Appendix A*

**DECLARATION OF ANDREW NAMIKI ROBERTS  
ON BEHALF OF HAWAII FIREARMS COALITION**

**COMES NOW**, Andrew Namiki Roberts, and states as follows:

1. I am a natural person, an adult male, legal permanent resident of the United States of America, resident of the State of Hawaii, Honolulu county and I reside in Honolulu and am competent to provide this declaration. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;
2. All statements made about me, and the Hawaii Firearms Coalition (HIFICO) in the complaint in this action are true and accurate;
3. I am a member of the Hawaii firearms Coalition (HIFICO);
4. I am a law abiding citizen;
5. I am the Director of HIFICO;
6. Hawaii Firearm Coalition has 416 members.
7. Hawaii Firearms Coalition has members in Maui and the other counties that have concealed carry permits.

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*Appendix A*

8. Hawaii Firearm Coalition has members in Maui and elsewhere in Hawaii who would carry in areas prohibited by the laws at issue in this litigation but for the laws challenge in this lawsuit.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on June 22, 2022.

/s/  
Andrew Namiki Roberts

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**APPENDIX B — WOLFORD TRO EXHIBIT 1,  
EMAILS, FILED JUNE 23, 2023**

**From:** Alan Beck  
**To:** Paralegal\_1; Kevin O'Grady  
**Subject:** Fwd: [EXTERNAL] Notice of TRO Pursuant  
to Rule 65 of FRCP  
**Date:** Thursday, June 22, 2023 11:12:13 PM

---

----- Forwarded message -----

**From:** **Thomas Kolbe** <[Thomas.Kolbe@co.maui.hi.us](mailto:Thomas.Kolbe@co.maui.hi.us)>  
**Date:** Thu, Jun 22, 2023 at 6:51 PM  
**Subject:** RE: [EXTERNAL] Notice of TRO Pursuant to  
Rule 65 of FRCP  
**To:** Victoria Takayesu-hamilton  
<[Victoria.Takayesu-hamilton@co.maui.hi.us](mailto:Victoria.Takayesu-hamilton@co.maui.hi.us)>,  
<[alan.alexander.beck@gmail.com](mailto:alan.alexander.beck@gmail.com)>  
**Cc:** corpcoun <[corpcoun@co.maui.hi.us](mailto:corpcoun@co.maui.hi.us)>

HI Alan, for now, please respond to both Victoria (Tori) and me. I did not see any attachments to your email and understood that it was just a notice that the TRO filing would be forthcoming. If we are missing something, please resend. thanks

**From:** Alan Beck <[alan.alexander.beck@gmail.com](mailto:alan.alexander.beck@gmail.com)>  
**Sent:** Thursday, June 22, 2023 3:41 PM  
**To:** Victoria Takayesu-hamilton  
<[Victoria.Takayesu-hamilton@co.maui.hi.us](mailto:Victoria.Takayesu-hamilton@co.maui.hi.us)>  
**Cc:** Thomas Kolbe <[Thomas.Kolbe@co.maui.hi.us](mailto:Thomas.Kolbe@co.maui.hi.us)>;  
corpcoun <[corpcoun@co.maui.hi.us](mailto:corpcoun@co.maui.hi.us)>;  
[Caron.M.Inagaki@hawaii.gov](mailto:Caron.M.Inagaki@hawaii.gov); [nicholas.mclean@hawaii.gov](mailto:nicholas.mclean@hawaii.gov);  
[Robert.T.Nakatsuji@hawaii.gov](mailto:Robert.T.Nakatsuji@hawaii.gov); [kevin@kevinogradylaw.com](mailto:kevin@kevinogradylaw.com)  
**Subject:** Re: [EXTERNAL] Notice of TRO Pursuant  
to Rule 65 of FRCP

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*Appendix B*

Dear Victoria.

Since you responded, unless corrected, I will assume you are the correct person to send the TRO to. Thank you for your response. However, I did notice that the email was blank. Did something get omitted?

-Alan

On Thu, Jun 22, 2023 at 6:35 PM Victoria Takayesu-hamilton <[Victoria.Takayesuhamilton@co.maui.hi.us](mailto:Victoria.Takayesuhamilton@co.maui.hi.us)> wrote:

Victoria J. Takayesu  
Corporation Counsel  
Department of the Corporation Counsel  
200 S. High Street  
Wailuku, HI 96793  
Ph. (808) 270-7740  
Fax: (808) 270-7152  
email: [victoria.takayesu-hamilton@co.maui.hi.us](mailto:victoria.takayesu-hamilton@co.maui.hi.us)

This message is covered by the Electronic Communications Privacy Act, Title 18, United States Code, 2510-2521. This e-mail and any attached files are deemed privileged and confidential, and are intended solely for the use of the individual(s) or entity to whom this e-mail is addressed. If you are not one of the named recipient(s) or believe that you have received this message in error, please delete this e-mail and any attached files from all locations in your computer, server, network, etc. and notify the sender IMMEDIATELY at (808) 270-7582. Any other recreation, dissemination, forwarding or copying of this e-mail and any attached files is strictly prohibited and may be unlawful. Receipt to anyone other than the named recipient(s) is not a

*Appendix B*

waiver of any attorney-client, work product, or other applicable privilege.

E-mail is an informal method of communication and is subject to possible data corruption, either accidentally or intentionally. Therefore, it is normally inappropriate to rely on legal advice contained in an e-mail without obtaining further confirmation of said advice.

---

**From:** McLean, Nicholas <[nicholas.mclean@hawaii.gov](mailto:nicholas.mclean@hawaii.gov)>  
**Sent:** Thursday, June 22, 2023 11:45 AM  
**To:** Sonya Toma <[Sonya.H.Toma@co.maui.hi.us](mailto:Sonya.H.Toma@co.maui.hi.us)>;  
Victoria Takayesu-hamilton  
<[Victoria.Takayesu-hamilton@co.maui.hi.us](mailto:Victoria.Takayesu-hamilton@co.maui.hi.us)>;  
[CORPCOUN@mauicounty.gov](mailto:CORPCOUN@mauicounty.gov) corp coun  
<[corp coun@co.maui.hi.us](mailto:corp coun@co.maui.hi.us)>; Alan Beck  
<[alan.alexander.beck@gmail.com](mailto:alan.alexander.beck@gmail.com)>;  
Caron M Inagaki <[Caron.M.Inagaki@hawaii.gov](mailto:Caron.M.Inagaki@hawaii.gov)>;  
Robert T Nakatsuji <[Robert.T.Nakatsuji@hawaii.gov](mailto:Robert.T.Nakatsuji@hawaii.gov)>; Kevin O'Grady <[kevin@kevinogradylaw.com](mailto:kevin@kevinogradylaw.com)>  
**Subject:** RE: [EXTERNAL] Notice of TRO Pursuant to Rule 65 of FRCP

Hi Alan,

Thank you for letting us know. We acknowledge receipt of your email. As we discussed, please send a courtesy copy of any filings to me by email.

Please don't hesitate to reach out if you have any questions.

Best regards,  
Nick

221a

*Appendix B*

**Nicholas M. McLean**

First Deputy Solicitor General  
Department of the Attorney General |  
Ka 'Oihana O Ka Loio Kuhina  
State of Hawai'i  
Phone: 808.586.1360  
Email: [nicholas.mclean@hawaii.gov](mailto:nicholas.mclean@hawaii.gov)

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---

**From:** Alan Beck <[alan.alexander.beck@gmail.com](mailto:alan.alexander.beck@gmail.com)>

**Sent:** Thursday, June 22, 2023 4:18 AM

**To:** Inagaki, Caron M <[Caron.M.Inagaki@hawaii.gov](mailto:Caron.M.Inagaki@hawaii.gov)>;  
Nakatsuji, Robert T <[Robert.T.Nakatsuji@hawaii.gov](mailto:Robert.T.Nakatsuji@hawaii.gov)>;  
McLean, Nicholas <[nicholas.mclean@hawaii.gov](mailto:nicholas.mclean@hawaii.gov)>;  
[Sonya.h.toma@co.maui.hi.us](mailto:Sonya.h.toma@co.maui.hi.us);

[Victoria.Takayesu-hamilton@co.maui.hi.us](mailto:Victoria.Takayesu-hamilton@co.maui.hi.us);  
[CORPCOUN@mauicounty.gov](mailto:CORPCOUN@mauicounty.gov); Kevin O'Grady  
<[kevin@kevinogradylaw.com](mailto:kevin@kevinogradylaw.com)>

**Subject:** [EXTERNAL] Notice of TRO Pursuant to  
Rule 65 of FRCP

222a

*Appendix B*

Dear Counsel for Attorney General Lopez and the County of Maui;

Rule 65 of the Federal Rules of Civil Procedure requires that I give my opposing counsel notice prior to filing a temporary restraining order. Myself and Attorney Kevn O'Grady represent several residents of Maui who will be impacted by SB 1230's implementation on July 1st, 2023. Kevin and I plan on filing a restraining order against certain parts of SB 1230's sensitive places law later today. We are in the process of finalizing the motion and various associated documents. Once they are finalized, who should I send them to for Attorney General Lopez? And who should I send them to for the County of Maui?

Respectfully,  
-Alan

223a

**APPENDIX C — WOLFORD TRO EXHIBIT 2,  
DECLARATION OF ALAN BECK,  
FILED JUNE 23, 2023**

Kevin Gerard O'Grady  
Law Office of Kevin O'Grady, LLC  
1164 Bishop Street, Suite 1605  
Honolulu, Hawaii 96813  
(808) 521-3367  
Hawaii Bar No. 8817  
Kevin@KevinOGradyLaw.Com  
Alan Alexander Beck

Law Office of Alan Beck  
2692 Harcourt Drive  
San Diego, CA 92123  
(619) 905-9105  
Hawaii Bar No. 9145  
Alan.alexander.beck@gmail.com

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

Civil Action No.

JASON WOLFORD , ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF THE STATE  
OF HAWAII, MAUI COUNTY,

*Defendants.*

*Appendix C*

**DECLARATION OF ALAN BECK**

COMES NOW, Alan Beck, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of California and am competent to provide this declaration. I make this declaration based on personal knowledge, except where otherwise stated.
2. I am one of the attorneys representing the Plaintiffs in this matter.
3. On June 22, 2023, I emailed the following attorneys at the Hawaii Attorney General's office. Caron M. Inagaki, Esq, Robert Tadao Nakatsuji, Esq. and Nicholas Mclean Esq. I informed them that myself and my co-counsel Kevin O'Grady would be filing a temporary restraining order against certain provisions of SB 1230 later that day. A true and correct copy of that email is attached to this declaration.
4. On June 21, 2023, I called the Maui Department of the Corporation Counsel's main telephone line and spoke to their receptionist. I asked her to put me through to their litigation counsel. She was unable to do so because I did not have an open case with their office. I asked her to provide me with their litigation counsel's email. She said the only email she was able to provide me was their general email address. I found the names of Sonya Toma, Esq. and Victoria J. Takayesu, Esq. on the Maui Department of the Corporation Counsel website as the contacts for that department. I found their email addresses on the Hawaii State Bar Website.

*Appendix C*

5. I have previously litigated cases against the State of Hawaii and Attorney General Lopez. And based upon that experience, I know the attorneys I emailed as described below are among the attorneys at the Hawaii Attorney General's Office that handle cases like the one at issue in this litigation.
6. On June 22, 2023, I emailed the following attorneys at the Maui Department of the Corporation Counsel, Sonya Toma and Victoria J. Takayesu as part of the same email as I used to contact the Attorney General's office. I also emailed the Maui Department of the Corporation Counsel general email address. I informed them that I would be filing a temporary restraining order later that day against SB 1230's sensitive places restrictions and I was giving them notice pursuant to Rule 65 of the F.R.C.P. A true and accurate copy of that email is attached to this declaration.
7. I also informed counsel for both Defendants that Kevin and I were in the process of finalizing the temporary restraining order and other associated documents.
8. I requested that both parties provide me with the email address of the correct person to send the documents to at their respective offices.
9. Later that day at 10:12 a.m. H.S.T., I called the Hawaii Attorney General's Office, Appellate Division and spoke to Mr. Nicholas Mclean, Esq. He confirmed receipt of the aforementioned email and we discussed the temporary restraining order that is about to be filed. He requested that I send

*Appendix C*

a copy of the temporary restraining order once it was finalized.

10. At 11:44 a.m. H.S.T. on June 22, 2023, Counsel for Attorney General Lopez, Nickolas Mclean, Esq., emailed me confirming receipt of my original email and told me to email him once the temporary restraining order and other documents were finalized. A true and correct copy of that email is attached to this declaration.
11. On June 22, 2023, Counsel for the Department of the Corporation Counsel for the County of Maui, Thomas Kolbe, Esq., emailed me and confirmed receipt of the email I sent to Victoria J. Takayesu and Sonya Toma. He requested that I copy him and Victoria J. Takayesu on future email communications and to email a copy of the filed temporary restraining order and other documents. A true and correct copy of that email is attached to this declaration.
12. On June 23, 2023 I emailed Nicholas Mclean, Victoria Takayesu and Thomas Kolbe the finalized complaint, temporary restraining order and other associated documents. A true and correct copy of that email is attached to this declaration.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on June 23, 2023.

/s/ \_\_\_\_\_  
Alan Beck

227a

**APPENDIX D — WOLFORD TRO EXHIBIT 3,  
EMAILS, FILED JUNE 23, 2023**

**From:** Alan Beck  
**To:** [Paralegal\\_1](#); [Kevin O'Grady](#)  
**Subject:** Fwd: [EXTERNAL] Notice of TRO Pursuant  
to Rule 65 of FRCP  
**Date:** Thursday, June 22, 2023 11:45:26 AM

----- Forwarded message -----

**From:** **McLean, Nicholas** <[nicholas.mclean@hawaii.gov](mailto:nicholas.mclean@hawaii.gov)>  
**Date:** Thu, Jun 22, 2023 at 2:44 PM  
**Subject:** RE: [EXTERNAL] Notice of TRO Pursuant to  
Rule 65 of FRCP  
**To:** Alan Beck <[alan.alexander.beck@gmail.com](mailto:alan.alexander.beck@gmail.com)>,  
Inagaki, Caron M <[Caron.M.Inagaki@hawaii.gov](mailto:Caron.M.Inagaki@hawaii.gov)>,  
Nakatsuji, Robert T <[Robert.T.Nakatsuji@hawaii.gov](mailto:Robert.T.Nakatsuji@hawaii.gov)>,  
[Sonya.h.toma@co.maui.hi.us](mailto:Sonya.h.toma@co.maui.hi.us) <[Sonya.h.toma@co.maui.hi.us](mailto:Sonya.h.toma@co.maui.hi.us)>,  
[Victoria.Takayesuhamilton@co.maui.hi.us](mailto:Victoria.Takayesuhamilton@co.maui.hi.us)  
<[Victoria.Takayesu-hamilton@co.maui.hi.us](mailto:Victoria.Takayesu-hamilton@co.maui.hi.us)>,  
[CORPCOUN@mauicounty.gov](mailto:CORPCOUN@mauicounty.gov)  
<[CORPCOUN@mauicounty.gov](mailto:CORPCOUN@mauicounty.gov)>, Kevin O'Grady  
<[kevin@kevinogradylaw.com](mailto:kevin@kevinogradylaw.com)>

Hi Alan,

Thank you for letting us know. We acknowledge receipt of your email. As we discussed, please send a courtesy copy of any filings to me by email.

Please don't hesitate to reach out if you have any questions.

Best regards,  
Nick

228a

*Appendix D*

**Nicholas M. McLean**  
First Deputy Solicitor General  
Department of the Attorney General |  
Ka 'Oihana O Ka Loio Kuhina  
State of Hawai'i  
Phone: 808.586.1360  
Email: [nicholas.mclean@hawaii.gov](mailto:nicholas.mclean@hawaii.gov)

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---

**From:** Alan Beck <[alan.alexander.beck@gmail.com](mailto:alan.alexander.beck@gmail.com)>  
**Sent:** Thursday, June 22, 2023 4:18 AM  
**To:** Inagaki, Caron M <[Caron.M.Inagaki@hawaii.gov](mailto:Caron.M.Inagaki@hawaii.gov)>;  
Nakatsuji, Robert T <[Robert.T.Nakatsuji@hawaii.gov](mailto:Robert.T.Nakatsuji@hawaii.gov)>;  
McLean, Nicholas <[nicholas.mclean@hawaii.gov](mailto:nicholas.mclean@hawaii.gov)>;  
[Sonya.h.toma@co.maui.hi.us](mailto:Sonya.h.toma@co.maui.hi.us);  
[Victoria.Takayesu-hamilton@co.maui.hi.us](mailto:Victoria.Takayesu-hamilton@co.maui.hi.us);  
[CORPCOUN@mauicounty.gov](mailto:CORPCOUN@mauicounty.gov); Kevin O'Grady  
<[kevin@kevinogradylaw.com](mailto:kevin@kevinogradylaw.com)>  
**Subject:** [EXTERNAL] Notice of TRO Pursuant to  
Rule 65 of FRCP

229a

*Appendix D*

Dear Counsel for Attorney General Lopez and the County of Maui;

Rule 65 of the Federal Rules of Civil Procedure requires that I give my opposing counsel notice prior to filing a temporary restraining order. Myself and Attorney Kevin O'Grady represent several residents of Maui who will be impacted by SB 1230's implementation on July 1st, 2023. Kevin and I plan on filing a restraining order against certain parts of SB 1230's sensitive places law later today. We are in the process of finalizing the motion and various associated documents. Once they are finalized, who should I send them to for Attorney General Lopez? And who should I send them to for the County of Maui?

Respectfully,  
-Alan

230a

**APPENDIX E — WOLFORD TRO EXHIBIT 4,  
EMAIL, FILED JUNE 23, 2023**

6/22/23, 8:04 AM Notice of TRO Pursuant to Rule 65  
of FRCP

Gmail Alan Beck <alan.alexander.beck@gmail.com>

---

**Notice of TRO Pursuant to Rule 65 of FRCP**

1 message

---

Thu, Jun 22, 2023 at 7:18AM

**Alan Beck** <alan.alexander.beck@gmail.com>

To: "Inagaki, Caron M" <Caron.M.Inagaki@hawaii.gov>,  
"Nakatsuji, Robert T" <Robert.t.nakatsuji@hawaii.gov>,  
"Mclean, Nicholas" <Nicholas.mclean@hawaii.gov>,  
Sonya.h.toma@co.maui.hi.us,  
Victoria.Takayesu-hamilton@co.maui.hi.us,  
CORPCOUN@mauicounty.gov, Kevin O'Grady  
<kevin@kevinogradylaw.com>

Dear Counsel for Attorney General Lopez and the County  
of Maui;

Rule 65 of the Federal Rules of Civil Procedure requires  
that I give my opposing counsel notice prior to filing a  
temporary restraining order. Myself and Attorney Kevin  
O'Grady represent several residents of Maui who will be  
impacted by SB 1230's implementation on July 1st, 2023.  
Kevin and I plan on filing a restraining order against  
certain parts of SB 1230's sensitive places law later today.  
We are in the process of finalizing the motion and various  
associated documents. Once they are finalized, who should

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*Appendix E*

I send them to for Attorney General Lopez? And who should I send them to for the County of Maui?

Respectfully,  
-Alan

232a

**APPENDIX F — WOLFORD TRO EXHIBIT 5,  
EMAILS, FILED JUNE 23, 2023**

**From:** Alan Beck  
**To:** Victoria Takayesu-hamilton;  
Thomas Kolbe;  
Kevin O'Grady; Paralegal\_1  
**Subject:** Fwd: Sb1230 First lawsuit Wolford  
COMPLAINT etc NO EXH Email 1  
**Date:** Friday, June 23, 2023 10:51:13 AM  
**Attachments:** sb 1230 Complaint FINAL w VERS.pdf  
SB1230 First lawsuit Civil Cover sheet 22Jun23.pdf  
Summons AG.pdf  
Summons Maui.pdf

---

This is the 1st of several emails that contains the finalized documents we will be filing shortly.

----- Forwarded message -----

**From:** **Kevin O'Grady** <[kevin@kevinogradylaw.com](mailto:kevin@kevinogradylaw.com)>  
**Date:** Fri, Jun 23, 2023 at 1:15 PM  
**Subject:** Sb1230 First lawsuit Wolford COMPLAINT  
etc NO EXH Email  
**To:** Alan Beck <[alan.alexander.beckW2gmail.com](mailto:alan.alexander.beckW2gmail.com)>,  
Paralegal 1 <[paralegal1@kevinogradylaw.com](mailto:paralegal1@kevinogradylaw.com)>,  
Kevin O'Grady <[kevin@kevinogradylaw.com](mailto:kevin@kevinogradylaw.com)>

Respectfully,

Kevin O'Grady, Esquire  
The Law Office of Kevin O'Grady, LLC  
1164 Bishop Street  
Suite 1605  
Honolulu, Hawaii 96813 Telephone 808-521-3367

233a

*Appendix F*

800-DUI-CASE

Facsimile 808-521-3369

[www.KevinOGradyLaw.Com](http://www.KevinOGradyLaw.Com)

U.S. Law Shield Attorney- Hawaii

Member —

United States Supreme Court

United States Court of Appeals for the Ninth Circuit

United States District Court for the Northern District of Texas

United States District Court for the District of Hawaii

Hawaii State Bar Association

National Association of Criminal Defense Lawyers

Hawaii Association of Criminal Defense Lawyers

National College For DUI Defense

American Council of Second Amendment Lawyers

234a

*Appendix F*

**From:** Alan Beck  
**To:** Thomas Kolbe;  
Victoria Takayesu-hamilton;  
McLean, Nicholas; Paralegal 1  
**Subject:** Fwd: SB1230 First lawsuit Wolford  
Complant Exhibits A  
**Date:** Friday, June 23, 2023 10:51:37 AM  
**Attachments:** Exh 1.pdf  
Exh 2.pdf  
Exh 3.pdf  
Exh 4 FINAL.pdf

---

this is the second email with filings

----- Forwarded message -----

**From:** **Kevin O'Grady** <[kevin@kevinogradylaw.com](mailto:kevin@kevinogradylaw.com)>  
**Date:** Fri, Jun 23, 2023 at 1:20 PM  
**Subject:** SB1230 First lawsuit Wolford Complant  
Exhibits A  
**To:** Alan Beck <[alan.alexander.beckW2gmail.com](mailto:alan.alexander.beckW2gmail.com)>,  
Paralegal 1 <[paralegal1@kevinogradylaw.com](mailto:paralegal1@kevinogradylaw.com)>,  
Kevin O'Grady <[kevin@kevinogradylaw.com](mailto:kevin@kevinogradylaw.com)>

Respectfully,

Kevin O'Grady, Esquire  
The Law Office of Kevin O'Grady, LLC  
1164 Bishop Street  
Suite 1605  
Honolulu, Hawaii 96813 Telephone 808-521-3367  
800-DUI-CASE  
Facsimile 808-521-3369  
[www.KeinOGradyLaw.Com](http://www.KeinOGradyLaw.Com)

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*Appendix F*

U.S. Law Shield Attorney- Hawaii

Member —

United States Supreme Court

United States Court of Appeals for the Ninth Circuit

United States District Court for the Northern District of Texas

United States District Court for the District of Hawaii

Hawaii State Bar Association

National Association of Criminal Defense Lawyers

Hawaii Association of Criminal Defense Lawyers

National College For DUI Defense

American Council of Second Amendment Lawyers

236a

*Appendix F*

**From:** Alan Beck  
**To:** Thomas Kolbe;  
Victoria Takayesu-hamilton;  
McLean, Nicholas; Paralegal 1  
**Subject:** Fwd: Sb1230 First lawsuit Wolford  
Complant exhibits 2  
**Date:** Friday, June 23, 2023 10:51:23 AM  
**Attachments:** Exh 5.pdf  
Exh 7.pdf  
exhibit 6 finalb.pdf  
HIFICO DEC FINAL w sig.pdf

---

third email with filings

----- Forwarded message -----

**From:** **Kevin O'Grady** <[kevin@kevinogradylaw.com](mailto:kevin@kevinogradylaw.com)>  
**Date:** Fri, Jun 23, 2023 at 1:45 PM  
**Subject:** Sb1230 First lawsuit Wolford Complant  
exhibits 2  
**To:** Alan Beck <[alan.alexander.beckW2gmail.com](mailto:alan.alexander.beckW2gmail.com)>,  
Paralegal 1 <[paralegal1@kevinogradylaw.com](mailto:paralegal1@kevinogradylaw.com)>,  
Kevin O'Grady <[kevin@kevinogradylaw.com](mailto:kevin@kevinogradylaw.com)>

Respectfully,

Kevin O'Grady, Esquire  
The Law Office of Kevin O'Grady, LLC  
1164 Bishop Street  
Suite 1605  
Honolulu, Hawaii 96813 Telephone 808-521-3367  
800-DUI-CASE  
Facsimile 808-521-3369  
[www.KeinOGradyLaw.Com](http://www.KeinOGradyLaw.Com)

237a

*Appendix F*

U.S. Law Shield Attorney- Hawaii

Member —

United States Supreme Court

United States Court of Appeals for the Ninth Circuit

United States District Court for the Northern District of Texas

United States District Court for the District of Hawaii

Hawaii State Bar Association

National Association of Criminal Defense Lawyers

Hawaii Association of Criminal Defense Lawyers

National College For DUI Defense

American Council of Second Amendment Lawyers

238a

*Appendix F*

**From:** Alan Beck  
**To:** McLean, Nicholas; Thomas Kolbe;  
Victoria Takayesu-hamilton;  
Paralegal 1; Kevin O'Grady  
**Subject:** Fwd: SB1230 First lawsuit Wolford TRO (a)  
**Date:** Friday, June 23, 2023 10:51:31 AM  
**Attachments:** Exh 1.pdf  
Exh 2.pdf  
Exh 3.pdf  
Exh 4 FINAL.pdf

---

5th email with filings

----- Forwarded message -----

**From:** Kevin O'Grady <[kevin@kevinogradylaw.com](mailto:kevin@kevinogradylaw.com)>  
**Date:** Fri, Jun 23, 2023 at 1:47 PM  
**Subject:** SB1230 First lawsuit Wolford TRO (a)  
**To:** Alan Beck <[alan.alexander.beckW2gmail.com](mailto:alan.alexander.beckW2gmail.com)>,  
Paralegal 1 <[paralegal1@kevinogradylaw.com](mailto:paralegal1@kevinogradylaw.com)>,  
Kevin O'Grady <[kevin@kevinogradylaw.com](mailto:kevin@kevinogradylaw.com)>

Respectfully,

Kevin O'Grady, Esquire  
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1164 Bishop Street  
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U.S. Law Shield Attorney- Hawaii

*Appendix F*

Member —

United States Supreme Court  
United States Court of Appeals for the Ninth Circuit  
United States District Court for the Northern District of Texas  
United States District Court for the District of Hawaii  
Hawaii State Bar Association  
National Association of Criminal Defense Lawyers  
Hawaii Association of Criminal Defense Lawyers  
National College For DUI Defense  
American Council of Second Amendment Lawyers

240a

*Appendix F*

**From:** Alan Beck  
**To:** Thomas Kolbe; McLean, Nicholas;  
Victoria Takayesu-hamilton;  
Paralegal 1; Kevin O'Grady  
**Subject:** Fwd: SB1230 First lawsuit Wolford  
TRO Decl  
**Date:** Friday, June 23, 2023 10:51:36 AM  
**Attachments:** EM frm Maui ack.pdf  
EM from McLean response to ntc tro.pdf  
EM to Maui+AG Alert them of TRO.pdf  
Wolford Maui email for Declaration.pdf  
wolford SB1230 AB dec updated for  
TRO 23 Jun 23.pdf

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6th and final email with filings

----- Forwarded message -----

**From:** **Kevin O'Grady** <[kevin@kevinogradylaw.com](mailto:kevin@kevinogradylaw.com)>  
**Date:** Fri, Jun 23, 2023 at 1:48 PM  
**Subject:** SB1230 First lawsuit Wolford TRO Decl  
**To:** Alan Beck <[alan.alexander.beckW2gmail.com](mailto:alan.alexander.beckW2gmail.com)>,  
Paralegal 1 <[paralegal1@kevinogradylaw.com](mailto:paralegal1@kevinogradylaw.com)>,  
Kevin O'Grady <[kevin@kevinogradylaw.com](mailto:kevin@kevinogradylaw.com)>

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Member —

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United States District Court for the District of Hawaii

Hawaii State Bar Association

National Association of Criminal Defense Lawyers

Hawaii Association of Criminal Defense Lawyers

National College For DUI Defense

American Council of Second Amendment Lawyers

242a

*Appendix F*

**From:** Alan Beck  
**To:** Thomas Kolbe; McLean, Nicholas;  
Victoria Takayesu-hamilton;  
Paralegal 1; Kevin O'Grady  
**Subject:** there are only 5 emails total  
**Date:** Friday, June 23, 2023 11:38:07 AM

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My apologies. I labeled the emails incorrectly. The emails labeled I called the 5th and 6th emails are actually the 4th and 5th emails. There are only 5 emails total. You have all the finalized documents.

**APPENDIX G — EXPERT  
DECLARATION OF SAUL CORNELL**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

Civil No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD; ALISON WOLFORD; ATOM  
KASPRZYCKI; HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL  
CAPACITY AS ATTORNEY GENERAL OF  
THE STATE OF HAWAII; MAUI COUNTY,

*Defendants.*

**EXPERT DECLARATION OF SAUL CORNELL**

I, Saul Cornell, declare under penalty of perjury that the following is true and correct:

1. I have been asked by the Department of the Attorney General for the State of Hawaii to provide an expert opinion on the history of firearms regulation in the Anglo-American legal tradition, with a particular focus on how the Founding era understood the right to bear arms, as well as the understanding of the right to bear arms held at the time of the ratification of the Fourteenth Amendment to the United States Constitution. In *New York State Rifle & Pistol Ass'n v. Bruen*, the U.S. Supreme

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Court underscored that text, history, and tradition are the foundation of modern Second Amendment jurisprudence. This modality of constitutional analysis requires that courts analyze history and evaluate the connections between modern gun laws and earlier approaches to firearms regulation in the American past. My declaration explores these issues in some detail. Finally, I have been asked to evaluate the statute at issue in this case, particularly regarding its connection to the tradition of firearms regulation in American legal history.

2. This declaration is based on my own personal knowledge, research and experience, and if I am called to testify as a witness, I could and would testify competently to the truth of the matters discussed in this declaration.

**BACKGROUND AND QUALIFICATIONS**

3. I am the Paul and Diane Guenther Chair in American History at Fordham University. The Guenther Chair is one of three endowed chairs in the history department at Fordham and the only one in American history. In addition to teaching constitutional history at Fordham University to undergraduates and graduate students, I teach constitutional law at Fordham Law School. I have been a Senior Visiting research scholar on the faculty of Yale Law School, the University of Connecticut Law School, and Benjamin Cardozo Law School. I have given invited lectures, presented papers at faculty workshops, and participated in conferences on the topic of the Second Amendment and the history of gun regulation at Yale Law School, Harvard Law School, Stanford Law School, UCLA Law School, the University of Pennsylvania Law School,

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Columbia Law School, Duke Law School, Pembroke College Oxford, Robinson College, Cambridge, Leiden University, and McGill University.<sup>1</sup>

4. My writings on the Second Amendment and gun regulation have been widely cited by state and federal courts, including the majority and dissenting opinions in *Bruen*.<sup>2</sup> My scholarship on this topic has appeared in leading law reviews and top peer-reviewed legal history journals. I authored the chapter on the right to bear arms in *The Oxford Handbook of the U.S. Constitution* and co-authored the chapter in *The Cambridge History of Law in America* on the Founding era and the Marshall Court, the period that includes the adoption of the Constitution and the Second Amendment.<sup>3</sup> Thus, my expertise not only includes the history of gun regulation and the right to keep and bear arms, but also extends to American legal and constitutional history broadly defined.

5. I have provided expert witness testimony in *Rocky Mountain Gun Owners, Nonprofit Corp. v. Hickenlooper*, No. 14-cv-02850 (D. Colo. 2014); *Chambers, v. City of Boulder*, No. 2018 CV 30581 (Colo. D. Ct., Boulder Cty.

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1. For a full *curriculum vitae* listing relevant invited and scholarly presentations, see Exhibit 1.

2. *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111 (2022).

3. Saul Cornell, *The Right to Bear Arms*, in THE OXFORD HANDBOOK OF THE U.S. CONSTITUTION 739-59 (Mark Tushnet, Sanford Levinson & Mark Graber eds., 2015); Saul Cornell & Gerald Leonard, *Chapter 15: The Consolidation of the Early Federal System*, in 1 THE CAMBRIDGE HISTORY OF LAW IN AMERICA 518-44 (Christopher Tomlins & Michael Grossberg eds., 2008).

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2018), *Zeleny v. Newsom*, No. 14-cv-02850 (N.D. Cal. 2014), *Miller v. Smith*, No. 2018-cv-3085 (C.D. Ill. 2018); *Jones v. Bonta*, 3:19-cv-01226-L-AHG (S.D. Cal. 2019); *Baird v. Bonta*, No. 2:19-cv-00617 (E.D. Cal. 2019); *Worth v. Harrington*, No. 21-cv-1348 (D. Minn. 2021); *Miller v. Bonta*, No. 3:19-cv-01537-BEN-JLB (S.D. Cal. 2019); *Duncan v. Bonta*, No. 3:17-cv-01017-BEN-JLB (S.D. Cal. 2017); *Renna v. Bonta*, No. 20-cv-2190 (S.D. Cal. 2020); *Boland v. Bonta*, No. 8:22-cv-1421-CJC-ADS (C.D. Cal. 2022); *Rupp v. Bonta*, No. 8:17-cv-746JLS-JDE (C.D. Cal. 2017); *B&L Productions, Inc. v. Newsom*, No. 21-cv-1718-AJB-DDL (S.D. Cal. 2021); *Nat'l Assoc. for Gun Rts. v. Campbell*, No. 1:22-cv-11431-FDS (D. Mass. 2022); *Nat'l Assoc. for Gun Rts. v. Lamont*, No. 3:22-cv-0118 (D. Conn. 2022); *Nastri v. Dykes*, No. 3:23-cv-00056 (D. Conn. 2023); and *Nat'l Assoc. for Gun Rts. v. Lopez*, No. 1:22-cv-00404 (D. Haw. 2022).

**BASIS FOR OPINION AND  
MATERIALS CONSIDERED**

6. The opinion I provide in this declaration is based on my review of the complaint filed in this lawsuit, plaintiffs' motion for temporary restraining order and preliminary injunction, the laws at issue in this lawsuit, and my education, expertise, and research in the field of legal history. The opinions contained herein are made pursuant to a reasonable degree of professional certainty.

**SUMMARY OF OPINIONS**

7. Understanding text, history, and tradition requires a sophisticated grasp of historical context. One must canvass

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the relevant primary sources, secondary literature, and jurisprudence to arrive at an understanding of the scope of permissible regulation consistent with the Second Amendment's original understanding.

8. It is impossible to understand the meaning and scope of Second Amendment protections without understanding the way Americans in the Founding era approached legal questions and rights. In contrast to most modern lawyers, the members of the First Congress who wrote the words of the Second Amendment and the American people who enacted the text into law were well schooled in English common law ideas. Not every feature of English common law survived the American Revolution, but there were important continuities between English law and the common law in America.<sup>4</sup> Each of the new states, either by statute or judicial decision, adopted multiple aspects of the common law, focusing primarily on those features of English law that had been in effect in the English colonies for generations.<sup>5</sup> No legal principle was more important to the common law than the concept

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4. William B. Stoebuck, *Reception of English Common Law in the American Colonies*, 10 WM. & MARY L. REV. 393 (1968); MD. CONST. OF 1776, DECLARATION OF RIGHTS, art. III, § 1; Lauren Benton & Kathryn Walker, *Law for the Empire: The Common Law in Colonial America and the Problem of Legal Diversity*, 89 CHI.-KENT L. REV. 937 (2014).

5. 9 STATUTES AT LARGE OF PENNSYLVANIA 29-30 (Mitchell & Flanders eds. 1903); FRANCOIS XAVIER MARTIN, A COLLECTION OF STATUTES OF THE PARLIAMENT OF ENGLAND IN FORCE IN THE STATE OF NORTH-CAROLINA 60-61 (Newbern, 1792); *Commonwealth v. Leach*, 1 Mass. 59 (1804).

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of the peace.<sup>6</sup> As one early American justice of the peace manual noted: “the term peace, denotes the condition of the body politic in which no person suffers, or has just cause to fear any injury.”<sup>7</sup> Blackstone, a leading source of early American views about English law, opined that the common law “hath ever had a special care and regard for the conservation of the peace; for peace is the very end and foundation of civil society.”<sup>8</sup> Any approach to the Second Amendment that ignores the importance of the peace to Founding era constitutional and legal thought is both anachronistic and profoundly distorted.<sup>9</sup>

9. Early American constitutionalism built on Lockean theory, a fact evident in many early state constitutions. Thus, Pennsylvania, the first state to assert a right to bear arms, also unambiguously preceded the statement of that principal with an assertion closely tracking Locke: “That all men are born equally free and independent, and have certain natural, inherent and inalienable rights, amongst which are, the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety.”<sup>10</sup>

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6. LAURA F. EDWARDS, *THE PEOPLE AND THEIR PEACE: LEGAL CULTURE AND THE TRANSFORMATION OF INEQUALITY IN THE POST-REVOLUTIONARY SOUTH* (University of North Carolina Press, 2009).

7. JOSEPH BACKUS, *THE JUSTICE OF THE PEACE* 23 (1816).

8. 1 WILLIAM BLACKSTONE, *COMMENTARIES* \*349.

9. EDWARDS, *supra* note 6.

10. 5 FEDERAL AND STATE CONSTITUTIONS 3082 (F. Thorpe ed. 1909); PA. CONST., DECL. OF RIGHTS, Art. I (1776); *more generally*,

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The right of self-defense and property rights were each viewed as fundamental, inalienable, and foundational in the Founding era.<sup>11</sup> Although the right associated with property and self-defense could not be alienated (a term that was itself derived from English property law) both rights were subject to robust regulation.<sup>12</sup>

10. In *Bruen*, Justice Kavanaugh reiterated *Heller*'s<sup>13</sup> invocation of Blackstone's authority as a guide to how early Americans understood their legal inheritance from England.<sup>14</sup> In the years following the adoption of the Second Amendment and its state analogues, firearm regulation increased, a natural response to new challenges posed by changes in technology and society. As had been true in England, the newly independent states exercised their broad police powers to address longstanding issues and any novel problems created by firearms in American society.

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*see* WILLI PAUL ADAMS, *THE FIRST AMERICAN CONSTITUTIONS: REPUBLICAN IDEOLOGY AND THE MAKING OF STATE CONSTITUTIONS IN THE REVOLUTIONARY ERA* (1980).

11. Jud Campbell, *Judicial Review and the Enumeration of Rights*, 15 *Geo. J. L. & Pub. Pol'y* 568 (2017).

12. Joseph Postell, *Regulation During the American Founding: Achieving Liberalism and Republicanism*, 5 *Am. Pol. Thought* 80 (2016) (examining the importance of regulation to Founding political and constitutional thought).

13. *District of Columbia v. Heller*, 554 U.S. 570 (2008).

14. On Founding-era conceptions of liberty, *see* JOHN J. ZUBLY, *THE LAW OF LIBERTY* (1775). The modern terminology to describe this concept is "ordered liberty." *See Palko v. Connecticut*, 302 U.S. 319, 325 (1937).

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11. American law, including the regulation of firearms, sought to protect ordered liberty. As one patriotic revolutionary era orator observed, almost a decade after the adoption of the Constitution: “True liberty consists, not in having *no government*, not in a *destitution of all law*, but in our having an equal voice in the formation and execution of the laws, according as they effect [*sic*] our persons and property.”<sup>15</sup> By allowing individuals to participate in politics and enact laws aimed at promoting the health, safety, and well-being of the people, liberty flourished.

12. The members of the Founding generation lived in a pre-modern rural society. There were no modern style police forces to keep the peace. Even after the creation of modern style police forces in the period before the Civil War, firearms were rarely carried routinely in public outside of the South and frontier regions. Indeed, none of the nation’s early police forces in Boston, New York, and Philadelphia issued firearms to those charged with enforcing the peace and protecting society from criminals.

13. Few of the institutions modern Americans take for granted existed in Founding era America. Outside of major cities there were few hospitals and even fewer museums, and these were private institutions that served the public. There was no modern-style mass transportation. All forms of transport were privately owned.

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15. Joseph Russell, *An Oration; Pronounced in Princeton, Massachusetts, on the Anniversary of American Independence, July 4, 1799*, at 7 (July 4, 1799) (text available in the Evans Early American Imprint Collection) (emphasis in original).

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14. Although many public spaces existed in early America, modern style parks did not emerge until the nineteenth century. The development of such spaces in period before the Civil War was itself a response to the greater urbanization of the nation and a perception that America needed to create havens of tranquility to offset the negative impacts of the market revolution. From their inception, these new public spaces prohibited firearms.

**I. THE HISTORICAL INQUIRY REQUIRED BY *BRUEN*,  
*MCDONALD*, AND *HELLER*: RIGHTS AND REGULATION**

15. The United States Supreme Court’s decisions in *Heller*, *McDonald*<sup>16</sup>, and *Bruen* have directed courts to look to text, history, and tradition when evaluating the scope of permissible firearms regulation under the Second Amendment. In another case involving historical determinations, Justice Thomas, the author of the majority opinion in *Bruen*, has noted that judges must avoid approaching history, text, and tradition with an “ahistorical literalism.”<sup>17</sup> Legal texts must not be read in a decontextualized fashion detached from the web of historical meaning that made them comprehensible to Americans living in the past. Instead, understanding the public meaning of constitutional texts requires a solid grasp of the relevant historical contexts.<sup>18</sup>

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16. *McDonald v. City of Chicago*, 561 U.S. 742 (2010).

17. *Franchise Tax Board of California v. Hyatt*, 139 S. Ct. 1485, 1498 (2019) (Thomas, J.) (criticizing “ahistorical literalism”).

18. See Jonathan Gienapp, *Historicism and Holism: Failures of Originalist Translation*, 84 FORDHAM L. REV. 935 (2015).

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16. Moreover, as *Bruen* makes clear, history neither imposes “a regulatory straitjacket nor a regulatory blank check.”<sup>19</sup> The Court acknowledged that when novel problems created by firearms are at issue the analysis must reflect this fact: “other cases implicating unprecedented societal concerns or dramatic technological changes may require a more nuanced approach.” *Bruen* differentiates between cases in which contested regulations are responses to long standing problems and situations in which modern regulations address novel problems with no clear historical analogues from the Founding era or the era of the Fourteenth Amendment.

17. In the years between *Heller* and *Bruen*, historical scholarship has expanded our understanding of the history of arms regulation in the Anglo-American legal tradition, but much more work needs to be done to fill out this picture.<sup>20</sup> Indeed, such research is still ongoing: new materials continue to emerge; and in the year since *Bruen* was decided, additional evidence about the history of regulation has surfaced and new scholarship interpreting it has appeared in leading law reviews and other scholarly venues.<sup>21</sup>

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19. *Bruen*, 142 S. Ct. at 2133.

20. Eric M. Ruben & Darrell A. H. Miller, *Preface: The Second Generation of Second Amendment Law & Policy*, 80 L. & CONTEMP. PROBS. 1 (2017).

21. *Symposium—The 2nd Amendment at the Supreme Court: “700 Years of History” and the Modern Effects of Guns in Public*, 55 U.C. DAVIS L. REV. 2495 (2022); NEW HISTORIES OF GUN RIGHTS AND REGULATION: ESSAYS ON THE PLACE OF GUNS IN

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18. Justice Kavanaugh underscored a key holding of *Heller* in his *Bruen* concurrence: “Like most rights, the right secured by the Second Amendment is not unlimited. From Blackstone through the 19th-century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” Crucially, the Court further noted that “we do think that *Heller* and *McDonald* point toward at least two metrics: how and why the regulations burden a law-abiding citizen’s right to armed self-defense.”<sup>22</sup>

19. The key insight derived from taking the Founding era conception of rights seriously and applying the original understanding of the Founding era’s conception of liberty is the recognition that regulation and liberty are both hard wired into the Amendment’s text.<sup>23</sup>

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AMERICAN LAW AND SOCIETY (Joseph Blocher, Jacob D. Charles & Darrell A.H. Miller eds., forthcoming 2023).

22. *Bruen*, 142 S. Ct. at 2132-33.

23. See generally QUENTIN SKINNER, LIBERTY BEFORE LIBERALISM (1998) (examining neo-Roman theories of free citizens and how they impacted the development of political theory in England); THE NATURE OF RIGHTS AT THE AMERICAN FOUNDING AND BEYOND (Barry Alan Shain ed., 2007) (discussing how the Founding generation approached rights, including the republican model of protecting rights by representation); Dan Edelstein, *Early-Modern Rights Regimes: A Genealogy of Revolutionary Rights*, 3 CRITICAL ANALYSIS L. 221, 233-34 (2016). See generally GERALD LEONARD & SAUL CORNELL, THE PARTISAN REPUBLIC: DEMOCRACY, EXCLUSION, AND THE FALL OF THE FOUNDERS’ CONSTITUTION, 1780s-1830s, at 2 (2019); Victoria Kahn, *Early Modern Rights Talk*, 13 YALE J.L. & HUMAN. 391 (2001) (discussing how the early

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The inclusion of rights guarantees in Founding era constitutional texts was not meant to place them beyond the scope of legislative control. “The point of retaining natural rights,” originalist scholar Jud Campbell reminds us “was not to make certain aspects of natural liberty immune from governmental regulation. Rather, retained natural rights were aspects of natural liberty that could be restricted only with just cause and only with consent of the body politic.”<sup>24</sup>

20. Rather than limiting rights, regulation was the essential means of preserving rights, including self-defense.<sup>25</sup> In fact, without robust regulation of arms, it would have been impossible to implement the Second Amendment and its state analogues. Mustering the militia required keeping track of who had weapons and included the authority to inspect those weapons and fine individuals who failed to store them safely and keep them in good working order.<sup>26</sup> The individual states also imposed loyalty oaths, disarming those who refused to take such

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modern language of rights incorporated aspects of natural rights and other philosophical traditions).

24. Jud Campbell, *The Invention of First Amendment Federalism*, 97 TEX. L. REV. 517, 527 (2019) (emphasis in original). See generally Saul Cornell, *Half Cocked: The Persistence of Anachronism and Presentism in the Academic Debate Over the Second Amendment*, 106 J. CRIM. L. & CRIMINOLOGY 203, 206 (2016).

25. See Jud Campbell, *Republicanism and Natural Rights at the Founding*, 32 CONST. COMMENT. 85 (2017).

26. H. RICHARD UVILLER & WILLIAM G. MERKEL, *THE MILITIA AND THE RIGHT TO ARMS, OR, HOW THE SECOND AMENDMENT FELL SILENT* 150 (2002).

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oaths. No state imposed a similar oath as pre-requisite to the exercise of First Amendment-type liberties. Thus, some forms of prior restraint, impermissible in the case of expressive freedoms protected by the First Amendment or comparable state provisions, were understood by the Founding generation to be perfectly consistent with the constitutional right to keep and bear arms.<sup>27</sup>

21. “Constitutional rights,” Justice Scalia wrote in *Heller*, “are enshrined with the scope they were thought to have when the people adopted them.”<sup>28</sup> The most basic right of all in Founding era constitutionalism was the right of the people to regulate their own internal police. Although modern lawyers and jurists are accustomed to thinking of state police power, the Founding generation viewed this concept as a right, not a power.<sup>29</sup> The first state constitutions clearly articulated such a right — including it alongside more familiar rights such as the right to bear arms.<sup>30</sup> Pennsylvania’s Constitution framed

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27. Saul Cornell, *Commonplace or Anachronism: The Standard Model, the Second Amendment, and the Problem of History in Contemporary Constitutional Theory* 16 CONST. COMMENT. 988 (1999).

28. *Heller*, 554 U.S. at 634-35; Christopher Tomlins, *Necessities of State: Police, Sovereignty, and the Constitution*, 20 J. POL’Y HIST. 47 (2008).

29. On the transformation of the Founding era’s ideas about a “police right” into the more familiar concept of “police power,” see generally Aaron T. Knapp, *The Judicialization of Police*, 2 CRITICAL ANALYSIS L. 64 (2015); Christopher Tomlins, *Necessities of State: Police, Sovereignty, and the Constitution*, 20 J. POL’Y HIST. 47 (2008).

30. PA. CONST. OF 1776, ch. I, art. III; MD. DECLARATION OF RIGHTS, art. IV (1776); N.C. DECLARATION OF RIGHTS, art. I, § 3 (1776); VT. DECLARATION OF RIGHTS, art. V (1777).

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this estimable right succinctly: “That the people of this State have the sole, exclusive and inherent right of governing and regulating the internal police of the same.” Although Justice Scalia’s observation on the scope of the right to bear arms has figured prominently in recent Second Amendment jurisprudence, the equally important right of the people to regulate their internal police has not been similarly acknowledged by many lower courts. This asymmetry is not only inconsistent with Founding era conceptions of law and constitutionalism, but also not consistent with *Heller*, a point that Chief Justice Roberts and Justice Kavanaugh have each asserted in their interpretations of *Heller* and subsequent jurisprudence. In short, an asymmetrical approach to gun rights and regulation, favoring the former over the latter, is precluded by *Heller* and not consistent with *Bruen*’s focus on text, history, and tradition. The history of gun regulation in the decades after the right to bear arms was codified in both the first state constitutions and the federal bill of rights underscores this key point. The right to bear arms was seldom interpreted (outside of a few outlier cases in the South) as precluding robust regulation of arms and gun powder.

## II. FROM MUSKETS TO PISTOLS: CHANGE AND CONTINUITY IN EARLY AMERICAN FIREARMS REGULATION

22. Guns have been regulated from the dawn of American history.<sup>31</sup> At the time *Heller* was decided,

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31. Robert J. Spitzer, *Gun Law History in the United States and Second Amendment Rights*, 80 L. & CONTEMP. PROBS. 55 (2017).

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there was little scholarship on the history of gun regulation and a paucity of quality scholarship on early American gun culture.<sup>32</sup> Fortunately, a burgeoning body of scholarship has illuminated both topics, deepening scholarly understanding of the relevant contexts needed to implement *Bruen*'s framework.<sup>33</sup> Indeed, in the year following *Bruen* new sources have come to light and new scholarship as well.<sup>34</sup>

23. The common law that Americans inherited from England always acknowledged that the right of self-defense was not unlimited but existed within a well-delineated jurisprudential framework. The entire body of the common law was designed to preserve the peace, and the right of self-defense existed within this larger framework.<sup>35</sup> Statutory law, both in England and America, functioned to further secure the peace and public safety. Given these indisputable facts, the Supreme Court correctly noted, the right to keep and bear arms was never understood to prevent government from enacting a broad range of regulations to promote the peace and maintain public safety.<sup>36</sup>

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32. *Id.*

33. Ruben & Miller, *supra* note 20, at 1.

34. See *Atkinson v. Garland*, 70 F.4th 1018, 1036 (7th Cir. 2023) (Wood, J., dissenting) (citing new scholarship by Andrew Willinger, *The Territories Under Text, History, and Tradition*, 101 WASH. U. L. REV. (forthcoming 2023) (manuscript at 27)).

35. Saul Cornell, *The Right to Keep and Carry Arms in Anglo-American Law: Preserving Liberty and Keeping the Peace*, 80 L. & CONTEMP. PROBS. 11 (2017).

36. *McDonald*, 561 U.S. at 785 (plurality opinion) (noting that “state and local experimentation with reasonable firearms

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24. Recent historical research has illuminated the nature of Founding era gun culture and the history of regulation. There was no analogue to the types of gun violence that plague modern America. The nature of firearms technology and early American society militated against guns as the preferred tool for most forms of interpersonal violence.<sup>37</sup>

25. Weapons in the Founding era were muzzle loaded guns that were not particularly accurate and took a long time to load. The black powder used in these firearms was corrosive and attracted moisture like a sponge: two facts that militated against storing weapons loaded. Given the state of firearms technology in the Founding era, it is not surprising that recent scholarship has demonstrated that there was not a widespread gun violence problem in the era of the Second Amendment.<sup>38</sup>

26. History is marked by change and the history of guns is no exception. Changes in firearms technology

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regulations will continue under the Second Amendment” (cleaned up)).

37. Kevin M. Sweeney, *Firearms Ownership and Militias in Seventeenth and Eighteenth Century England and America*, in *A RIGHT TO BEAR ARMS?: THE CONTESTED ROLE OF HISTORY IN CONTEMPORARY DEBATES ON THE SECOND AMENDMENT* (Jennifer Tucker et al. eds., 2019).

38. Randolph Roth, Transcript: *Why is the United States the Most Homicidal in the Affluent World*, NATIONAL INSTITUTE OF JUSTICE (Dec. 1, 2013), <https://nij.ojp.gov/media/video/24061#transcript--0>.

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and American society in the nineteenth century led to the emergence of America's first gun violence problems. The response of states to the emergence of new firearms that threatened the peace was a plethora of new laws. The first notable expansion of regulation occurred during the period after the War of 1812, when cheap, reliable, and easily concealable pistols were produced for the first time in American history. More than 90% of the firearms in circulation in the Founding era were long guns, so pistols were not a serious problem for the Founders.<sup>39</sup>

27. In short, when addressing changes in technology, consumer behavior, and faced with novel threats to public safety, states used their ample authority under the police power to enact laws to address these problems. Apart from a few outlier cases in the South, courts upheld such limits on the unfettered exercise of a right to keep and bear arms.<sup>40</sup>

28. Weapons that posed a particular danger were regulated and, in some cases, prohibited. Responding in this fashion was entirely consistent with Founding-era conceptions of ordered liberty and the Second Amendment.<sup>41</sup>

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39. Sweeney *supra* note 37.

40. On southern gun rights exceptionalism, see Eric M. Ruben & Saul Cornell, *Firearms Regionalism and Public Carry: Placing Southern Antebellum Case Law in Context*, 125 YALE L.J. F. 121, 128 (2015).

41. Saul Cornell & Nathan DeDino, *A Well Regulated Right: The Early American Origins of Gun Control*, 73 FORDHAM L. REV. 487 (2004).

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29. Anglo-American law treated unusually dangerous weapons as legitimate targets for strong regulation. Blackstone and Hawkins, two of the most influential English legal writers consulted by the Founding generation, described these types of limits in slightly different terms. The two different formulations related to weapons described as “dangerous and unusual” and more typically as “dangerous or unusual.” Although some modern commentary on the Second Amendment have misread the Blackstonian principle as asserting that weapons must be both dangerous and unusual to justify government regulation, the term dangerous and unusual was not conjunctive, but a Latinate construction familiar to early American lawyers, hendiadys. Thus, the best translation of the term in modern parlance would be “unusually dangerous.” Indeed, this reading is the only parsing of the texts of Blackstone and Hawkins that reconciles the two author’s treatment of the scope of government authority to regulate arms.<sup>42</sup>

30. As Justice Scalia noted in *Heller*, and Justice Thomas reiterated in *Bruen*, the original Second Amendment was a result of a form of interest balancing undertaken by the people themselves in framing the federal constitution and the first ten amendments. Thus, from its outset the Second Amendment recognizes both the right to keep and bear arms and the right of the people

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42. This phrase was an example of an archaic grammatical and rhetorical form hendiadys; see Samuel Bray, ‘Necessary AND Proper’ and ‘Cruel AND Unusual’: Hendiadys in the Constitution, 102 VA. L. REV. 687 (2016). Thus, the term was not conjunctive and is best rendered as “unusually dangerous.”

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to regulate arms to promote the goals of preserving a free state. An exclusive focus on rights and a disparagement of regulation is thus antithetical to the plain meaning of the text of the Second Amendment. Although rights and regulation are often cast as antithetical in the modern gun debate, the Founding generation saw the two goals as complementary. Comparing the language of the Constitution's first two amendments and their different structures and word choice makes this point crystal clear. The First Amendment prohibits "abridging" the rights it protects. In standard American English in the Founding era, to "abridge" meant to "reduce." Thus, the First Amendment prohibits the diminishment of the rights it protects. The Second Amendment's language employs a very different term, requiring that the right to bear arms not be "infringed." In Founding era American English, the word "infringement" meant to "violate" or "destroy." Richard Burns, in his influential eighteenth-century legal dictionary, illustrated the concept of infringement by discussing the differences between the anarchic liberty associated with the state of nature and the well-regulated liberty associated with civil society and the rule of law. Liberty, according to Burns, was not identical to that "wild and savage liberty" of the state of nature. True liberty, by contrast, only existed when individuals created civil society and enacted laws and regulations that promoted *ordered* liberty. Regulation was therefore not understood to be an "infringement" of the right to bear arms, but rather the necessary foundation for the proper exercise of that right as required by the concept of ordered liberty. In short, when read with the Founding era's interpretive assumptions and legal definitions in mind, the text of the two Amendments was seen to set up very different frameworks for thinking about the

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rights they protect. Members of the Founding generation would have understood that legislatures could regulate the *conduct* protected by the Second Amendment and comparable state arms bearing provisions as long such regulations did not negate the underlying *right*. In fact, without robust regulation of arms, it would have been impossible to implement the Second Amendment and its state analogues.<sup>43</sup> In keeping with the clear public meaning of the Second Amendment’s text and comparable state provisions, early American governments enacted laws to preserve the rights of law-abiding citizens to keep and bear arms and promote the equally vital goal of public safety.

### III. THE POLICE POWER AND FIREARMS REGULATION, 1776-1868

31. The 1776 Pennsylvania Constitution, the first revolutionary constitution to assert a right to bear arms, preceded the assertion of this right by affirming a more basic rights claim: “That the people of this State have the sole, exclusive and inherent right of governing and regulating the internal police of the same.”<sup>44</sup> The phrase “internal police” had already become common, particularly in laws establishing towns and defining the scope of their legislative authority.<sup>45</sup> By the early nineteenth

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43. UVILLER & MERKEL, *supra* note 26.

44. PA. CONST. OF 1776, Ch. I, art iii.

45. For other examples of constitutional language similar to Pennsylvania’s provision, *see* N.C. CONST. OF 1776, DECLARATION OF RIGHTS, art. II; VT. CONST. OF 1777, DECLARATION OF RIGHTS, art.

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century, the term “police” was a fixture in American law.<sup>46</sup> Thus, an 1832 American encyclopedia confidently asserted that police, “in the common acceptation of the word, in the U. States and England, is applied to the municipal rules, institutions and officers provided for maintaining order, cleanliness &c.”<sup>47</sup> The Founding era’s conception of a basic police right located in legislatures was transmuted during the Marshall Court’s era into the judicial doctrine of the police power and would become a fixture in American law.

32. The power to regulate firearms and gunpowder has always been central to the police power and historically was shared among states, local municipalities, and the federal government when it was legislating conduct on federal land and in buildings.<sup>48</sup> The adoption of the

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IV. For other examples of this usage, *see* An Act Incorporating the residents residing within limits therein mentioned, *in* 2 NEW YORK LAWS 158 (1785) (establishing the town of Hudson, NY); An Act to incorporate the Town of Marietta, *in* LAWS PASSED IN THE TERRITORY NORTHWEST OF THE RIVER OHIO 29 (1791). For later examples, *see* 1 STATUTES OF THE STATE OF NEW JERSEY 561 (rev. ed. 1847); 1 SUPPLEMENTS TO THE REVISED STATUTES: GENERAL LAWS OF THE COMMONWEALTH OF MASSACHUSETTS; PASSED SUBSEQUENTLY TO THE REVISED STATUTES: 1836 TO 1849, INCLUSIVE 413 (Theron Metcalf & Luther S. Cushing, eds. 1849).

46. ERNST FREUND, *THE POLICE POWER: PUBLIC POLICY AND CONSTITUTIONAL RIGHTS* 2 n.2 (1904).

47. 10 *ENCYCLOPEDIA AMERICANA* 214 (Francis Lieber ed. 1849).

48. Harry N. Scheiber, *State Police Power*, *in* 4 *ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION 1744* (Leonard W. Levy et al. eds., 1986).

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Constitution and the Bill of Rights did not deprive states of their police powers. Indeed, if it had, the Constitution would not have been ratified and there would be no Second Amendment today. Ratification was only possible because Federalists offered Anti-Federalists strong assurances that nothing about the new government threatened the traditional scope of the individual state's police power authority, including the authority to regulate guns and gun powder.<sup>49</sup>

33. Federalists and Anti-Federalists bitterly disagreed over many legal issues, but this one point of accord was incontrovertible. Brutus, a leading Anti-Federalist, emphatically declared that: “[I]t ought to be left to the state governments to provide for the protection and defence [sic] of the citizen against the hand of private violence, and the wrongs done or attempted by individuals to each other. . . .”<sup>50</sup> Federalist Tench Coxe concurred, asserting that: “[t]he states will regulate and administer the criminal law, exclusively of Congress.” States, he assured the American people during ratification, would continue to legislate on all matters related to the police power, “such as unlicensed public houses, nuisances, and many other things of the like nature.”<sup>51</sup> State police power

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49. Saul Cornell, *THE OTHER FOUNDERS: ANTIFEDERALISM AND THE DISSENTING TRADITION IN AMERICA, 1788-1828* (1999).

50. Brutus, *Essays of Brutus VII*, reprinted in 2 *THE COMPLETE ANTIFEDERALIST* 358, 400-05 (Herbert J. Storing ed., 1981).

51. Tench Coxe, *A Freeman*, *PA. GAZETTE* (Jan. 23, 1788), reprinted in *FRIENDS OF THE CONSTITUTION: WRITINGS OF THE “OTHER” FEDERALISTS* 82 (Colleen A. Sheehan & Gary L. McDowell eds., 1998).

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authority was at its pinnacle in matters relating to guns or gun powder.<sup>52</sup>

34. Founding-era constitutions treated the right of the people to regulate their internal police separately from the equally important right of the people to bear arms. These two rights were separate in the Founding era but were mutually reinforcing: both rights were exercised in a manner that furthered the goal of ordered liberty. Reconstruction-era constitutions adopted a new textual formulation of the connection between these two formerly distinct rights, fusing the two together as one single constitutional principle. This change reflected two profound transformations in American politics and law between 1776 and 1868. First, the judicial concept of police power gradually usurped the older notion of a police right grounded in the idea of popular sovereignty. As a result, state constitutions no longer included free standing affirmations of a police right. Secondly, the constitutional “mischief to be remedied” that arms bearing provisions addressed had changed as well. Constitution writers in the era of the American Revolution feared powerful standing armies and sought to entrench civilian control of the military. By contrast, constitution writers in the era of the Fourteenth Amendment were no longer haunted by the specter of tyrannical Stuart Kings using their standing army to oppress American colonists. In place of these ancient fears, a new apprehension stalked Americans: the proliferation of unusually dangerous weapons and the societal harms they caused. The Reconstruction-era constitutional solution cast aside the eighteenth-century language that was steeped in fears of standing armies and

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52. Cornell, *supra* note 35.

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substituted in its place new language affirming the state’s police power authority to regulate arms, particularly in public.<sup>53</sup>

<b>Pennsylvania Constitution (1776)</b>	<b>Texas Constitution (1868)</b>
<p>“That the people of this State have the sole, exclusive and inherent right of governing and regulating the internal police of the same.”</p> <p>“That the people have a right to bear arms for the defence of themselves and the state; and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up; And that the military should be kept under strict subordination to, and governed by, the civil power.”<sup>54</sup></p>	<p>“Every person shall have the right to keep and bear arms, in the lawful defence of himself or the State, under such regulations as the Legislature may prescribe.”<sup>55</sup></p>

53. Saul Cornell, *The Right to Regulate Arms in the Era of the Fourteenth Amendment: The Emergence of Good Cause Permit Schemes in Post-Civil War America*, 55 U.C. DAVIS L. REV. 65 (2022).

54. PA. CONST. OF 1776, amend. III, XIII.

55. TEX. CONST. OF 1868, Art. I, § 13. For similarly expansive constitutional provisions enacted after the Civil War, see *infra* Table One.

*Appendix G***Private Property and the Founding Era's Default Rule about Arms**

35. There was no right to carry firearms onto the property of others in the Founding era. Indeed, had such a right existed, it would have undermined the peace, not preserved it. The castle doctrine, which included one's domicile and curtilage, meant individuals could respond with deadly force to perceived threats.<sup>56</sup>

36. Anglo-American constitutionalism was founded on the Lockean trinity of life, liberty, and property. Property rights in the Founding era were not only highly esteemed, but English common law doctrine gave individuals broad authority over their lands and powerful tools to enforce their claims against those who committed trespass. It would have been unthinkable to members of the Founding generation that any person could enter another's land armed, without permission or appropriate legal authority. The limits on peace officers underscore this fact. Entry on private property by a constable, sheriff, or justice of the peace without proper legal authority was a trespass. Moreover, it is important to note that peace officers in the Founding era were not typically armed with firearms so even when serving legal process, justices of the peace, sheriffs, and constables did not typically enter private property with firearms. The most notable exceptions to this principle were situations where one was in pursuit of a felon or a dangerous animal.<sup>57</sup>

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56. On the history of stand your ground, *see* Richard Maxwell Brown, *NO DUTY TO RETREAT: VIOLENCE AND VALUES IN AMERICAN HISTORY AND SOCIETY* (1994).

57. Stuart Bruchey, *The Impact of Concern for the Security of Property Rights on the Legal System of the Early American*

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37. The default rule enacted by Hawai'i simply restores property to its rightful place alongside life and liberty in the Founding era's Lockean vision of liberty. Blackstone's discussion of the centrality of property to English common law is apposite and offers a foundation for understanding why a restoration of the default rule prohibiting entering another's lands while armed is consistent with Founding era constitutionalism.

The third absolute right, inherent in every Englishman, is that of property: which consists in the free use, enjoyment, and disposal of all his acquisitions, without any control or diminution, save only by the laws of the land. . . . The laws of England are therefore, in point of honor and justice, extremely watchful in ascertaining and protecting this right.<sup>58</sup>

The practical implication of this robust view of property rights was considerable. In a celebrated English case where the Lord Chief Justice of the King's Bench summarized the implications of this view for English law: "our law holds the property of every man so sacred, that no man can set his foot upon his neighbour's close without his leave; if he does he is a trespasser, though he does no damage at all; if he will tread upon his neighbor's ground, he must justify it by law."<sup>59</sup>

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*Republic*, 1980 WIS. L. REV. 1135, 1136; James W. Ely, Jr., *THE GUARDIAN OF EVERY OTHER RIGHT: A CONSTITUTIONAL HISTORY OF PROPERTY RIGHTS* 30-32 (3d ed. 2008); William J. Novak, *Common Regulation: Legal Origins of State Power in America*, 45 HASTINGS L.J. 1061, 1081-83 (1994).

58. 1 WILLIAM BLACKSTONE, COMMENTARIES 134-35.

59. *Entick v. Carrington*, 95 Eng. Rep. 807 (K.B. 1765).

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38. The default rule prohibiting firearms on private property adopted by Hawai'i simply restores the legal rule in place at the Founding, a rule rooted in English common law. The prohibition on entering another's land without permission was part of the background assumptions against which the right to keep and bear arms would have been understood by those who wrote it and enacted the Second Amendment into law.

39. Blackstone's extensive discussion of the law of trespass elaborated this understanding and was well known to members of the Founding generation, including those who wrote and enacted the Second Amendment and similar state analogues. Judge Zephaniah Swift, author of one of the first legal treatises written after the adoption of the Second Amendment, summarized this Blackstonian consensus when he wrote: "every unwarrantable entry upon the lands and tenements of another, without his consent, is deemed a breaking of his close, and is an injury."<sup>60</sup>

40. Pennsylvania and New Jersey each enacted laws drawing on this tradition to pass broad restrictions on traveling armed onto private lands without permission:

Be it enacted, That if any person or persons shall presume, at any time after the publication of this act, to carry any gun, or hunt on any enclosed or improved lands of any of the inhabitants of this province, other than his own, unless he shall have license or permission from

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60. 2 ZEPHANIAH SWIFT, A SYSTEM OF THE LAWS OF THE STATE OF CONNECTICUT 74 (1795).

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the owner of such lands, or shall presume to fire a gun on or near any of the king's highways, and shall be thereof convicted, either upon view of any Justice of the Peace within this province, or by the oath or affirmation of any one or more witnesses, before any Justice of the Peace, he shall, for every such offence, forfeit the sum of forty shillings.<sup>61</sup>

41. The restoration of the common law default rule by Hawai'i therefore fits squarely within the long tradition of the regulation of arms under Anglo-American law.

### **The Historical Meaning of Sensitive Places and Limits on Arms**

42. The sensitive places doctrine described in *Heller* derives from well-established principles in Anglo-American law, including the Statute of Northampton (and its many analogs) and the common law itself. The sensitive places doctrine did not, as some gun rights advocates have erroneously suggested, depend on the fact that government could provide comprehensive security, such as modern court houses which have metal detectors and armed guards.<sup>62</sup> Founding era court houses did not enjoy

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61. 1 LAWS OF THE COMMONWEALTH OF PENNSYLVANIA, FROM THE FOURTEENTH DAY OF OCTOBER, ONE THOUSAND SEVEN HUNDRED, TO THE TWENTIETH DAY OF MARCH, ONE THOUSAND EIGHT HUNDRED AND TEN 229 (1810); CHARLES NETTLETON, LAWS OF THE STATE OF NEW-JERSEY 26 (1821).

62. David B. Kopel & Joseph G.S. Greenlee, *The "Sensitive Places" Doctrine: Locational Limits on the Right to Bear Arms*, 13 CHARLESTON L. REV. 203, 290 (2018).

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anything remotely analogous to these types of security measures. The English tradition of bans on arms in fairs and markets singled out these locations because they were sites of commerce, entertainment, and politics. Indeed, it was the very fact that individuals congregated in large numbers and moved about freely, engaging in productive economic, cultural, and political activities that was the reason arms were prohibited from these locations.<sup>63</sup>

43. An early American justices of the peace manual captured the common law's understanding of "sensitive places" when it reminded readers that constables, sheriffs, and other peace officers had the authority to arrest those who "shall go or ride armed with unusual and offensive weapons . . . among any great Concourse of the People."<sup>64</sup>

44. A good illustration of how early American governments understood sensitive places is provided by an early Louisiana law, prohibiting "any person to enter into a public ball-room with any cane, stick, sword or any other weapon" and requiring weapons be checked before entering a ball room. New Mexico enacted a similar statute. The law prohibited "any person to enter said Ball or room adjoining said ball where Liquors are sold, or to remain in said balls or Fandangos with firearms or other deadly weapons, whether they be shown or concealed upon

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63. JEROME BAYON, *GENERAL DIGEST OF THE ORDINANCES AND RESOLUTIONS OF THE CORPORATION OF NEW ORLEANS* 371 (1831) (art. 1).

64. J. DAVIS, *THE OFFICE AND AUTHORITY OF A JUSTICE OF THE PEACE* 13 (Newbern, James Davis 1774)

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their persons.”<sup>65</sup> In both cases the laws prohibited arms in places where people gathered in large numbers and engaged in forms of recreation.

45. Public universities in the early republic offer another good example of the potential scope of permissible firearms regulations consistent with the notion of sensitive places. Bans on guns on college campuses were another example of the strict regulation of arms in places where large numbers of people congregated. The University of Georgia, one of the nation’s oldest public institutions of higher education, passed a sweeping prohibition of guns on its campus: “[N]o student shall be allowed to keep any gun, pistol, Dagger, Dirk[,] sword cane[,] or any other offensive weapon in College or elsewhere, neither shall they or either of them be allowed to be possessed of the same out of the college in any case whatsoever.”<sup>66</sup> The University of North Carolina, likewise, enacted a total prohibition on possessing firearms. The law provided: “No Student shall keep a dog, or firearms, or gunpowder. He shall not carry, keep, or own at the College, a sword, dirk,

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65. 1852 N.M. Laws 67, § 3. Although *Bruen* suggested that evidence from the territories was not probative, subsequent research published after the decision has established that territories were in fact the only locations in nineteenth century America in which the Second Amendment applied prior to the Fourteenth Amendment, a fact that has gained judicial notice in the litigation spawned by *Bruen*, see *Atkinson*, 70 F.4th at 1036 (Wood, J., dissenting) (“Taking the Court at its word, new historical research should be welcome. . . .”)

66. The Minutes of the Senate Academicus, 1799-1842, (Univ. Ga. Librs. 2008), <https://tinyurl.com/3nxp4uwv>.

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sword-cane, or any deadly weapon.”<sup>67</sup> The regulations enacted by the University of Virginia are particularly telling in this regard. In 1819, Thomas Jefferson helped establish the state-supported University of Virginia. University of Virginia, *About the University*, <https://www.virginia.edu/aboutuva> (last accessed Nov. 4, 2022). While both Jefferson and James Madison were serving on the six-person University of Virginia Board of Visitors—the decision-making body for the university—the Board took an exceedingly strict view of guns on the Virginia campus, resolving: “No Student shall, within the precincts of the University, introduce, keep or use any spirituous or vinous liquors, keep or use weapons or arms of any kind, or gunpowder, keep a servant, horse or dog, appear in school with a stick, or any weapon.”<sup>68</sup>

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67. Acts of the General Assembly and Ordinances of the Trustees for the Organization and Government of the University of North-Carolina 15 (Raleigh, Off. of the Raleigh Reg. 1838), <https://tinyurl.com/2p8cte3h>. In 1859, the University of North Carolina expanded the reach of its prohibition on carrying deadly weapons, applying it not just to the college, but also “within the village of Chapel Hill.” Acts of the General Assembly and Ordinances of the Trustees for the Organization and Government of the University of North Carolina 31 (James M. Henderson 1859), <https://docsouth.unc.edu/true/unc/unc.html>.

68. Meeting Minutes of the University Board of Visitors, Oct. 4, 1824, <https://tinyurl.com/543s44xk>; *see also* Laws & Regulations of the College of William & Mary 19 (1830), <https://tinyurl.com/2p93s7hd>

*Appendix G***Reconstruction: Constitutional  
Continuity and Social Change**

46. During the Reconstruction era, many states enacted a variety of laws building on the history of sensitive place restrictions. Thus, Reconstruction era laws did not represent a new constitutional principle different than the common law restrictions that existed for centuries, but an application of the same legal principles to new circumstances brought about by changes in firearms technology, consumer behavior, and the demographic changes associated with greater urbanization. The principle justifying such a decision, excluding arms from sensitive places such as fair and markets, was ancient and informed Founding era laws as well as those enacted in the era of the Fourteenth Amendment.

47. One of the most comprehensive statutes enacted during the era of the Fourteenth Amendment was adopted in Texas. The law prohibited firearms in a variety of public venues, building on a tradition that had existed for centuries.

Section 1: If any person shall go into any church or religious assembly, any school-room or other place where persons assembled for educational, literary, or scientific purposes, or into a ball room, social party, or other social gathering, composed of ladies and gentlemen, or to any election precinct on the day or days of any election, where any portion of the people of this state are collected to vote at any election,

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or to any other place where people may be assembled to muster or to perform any other public duty, or any other public assembly, and shall have about his person a bowie-knife, dirk, or butcher-knife, or firearms, whether known as a six-shooter, gun, or pistol of any kind, such persons so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not less than fifty or more than five hundred dollars, at the discretion of the court or jury trying the same: *Provided*, That nothing contained in this section shall apply to locations subject to Indian depredations: *And provided further*, That this act shall not apply to any person or persons whose duty it is to bear arms on such occasions in discharge of duties imposed by law.<sup>69</sup>

48. Texas not only adopted a broad range of modern style gun regulations, including this law, but further noted that the state's highest court recognized that such an exercise of the police power was entirely constitutional. The Texas regime was not an outlier, but was consistent with the dominant conception of the right to bear arms in both the Founding era and the period of Fourteenth Amendment. What distinguished Texas from other states was not its robust use of the police power, but the level of gun violence that precipitated the need for such

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69. 2 GEORGE WASHINGTON PASCHAL, A DIGEST OF THE LAWS OF TEXAS: CONTAINING LAWS IN FORCE, AND THE REPEALED LAWS ON WHICH RIGHTS REST. CAREFULLY ANNOTATED. 1322 (3d ed. 1873).

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regulations.<sup>70</sup> The first state constitutions enacted after the American Revolution typically separated the right of the people to regulate their internal police from specific statements about the right to bear arms.<sup>71</sup> The Founding era formulation of the right to bear arms was distinct from the right of the people to regulate their internal police. The new state constitutions adopted during Reconstruction omit references to the dangers of standing armies and the need for civilian control of the military. In place of these textual references, state constitutions fused the right to regulate arms and the right to bear them into a single constitutional principle.<sup>72</sup>

49. The new textual formulation of the right to keep and bear arms did not alter the constitutional principles framing firearms regulation; these remained unchanged.

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70. Justice Thomas dismissed the probative value of any evidence from Reconstruction-era Texas as an outlier. But subsequent historical research has demonstrated that Texas was well within the constitutional mainstream of post-Civil War America. See Brennan Gardner Rivas, *Enforcement of Public Carry Restrictions: Texas as a Case Study* 55 U.C. DAVIS L. REV. 2603 (2022). The important evidence presented in this article only appeared after *Bruen* was argued. Rivas has demonstrated that Republicans enacted tough gun laws that were enforced in a racially neutral fashion until the Jim Crow era reversed the gains achieved during Reconstruction. For additional support for Rivas' conclusions, see Saul Cornell, *The Long Arc of Arms Regulation in Public: From Surety to Permitting, 1328-1928*, 55 U.C. DAVIS L. REV. 2545 (2022).

71. Cornell, *supra* note 53.

72. See, e.g., UTAH CONST. OF 1896, art. I, § 6.

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What had changed was that a new set of circumstances had created an unprecedented set of public safety concerns for states. The new danger Americans faced during and after Reconstruction was the proliferation of firearms and more aggressive cultural norms about carrying them in public, particularly in urban areas.<sup>73</sup>

50. The debates in the Texas constitutional convention during Reconstruction illustrate how changed practices led to new regulations. There is no evidence that anyone attending the state ratification conventions in the Founding era traveled to these gatherings armed. By contrast there was a palpable fear of gun violence among the delegates who participated in the Reconstruction era Texas state constitutional convention. In fact, this fear was so great that the convention passed a resolution prohibiting weapons in the convention hall. “[T]he convention do order that no person shall hereafter be allowed in this hall, who carries belted on his person, revolvers or other offensive weapons.”<sup>74</sup> Another delegate reminded the convention’s members that the constitutional right to bear arms ought not be confused with the pernicious practice of habitually arming. The right, he cautioned, ought not “be construed as giving any countenance to the evil practice of carrying private or concealed weapons about the person.”<sup>75</sup> Although the level of gun violence in

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73. RANDOLPH ROTH, *AMERICAN HOMICIDE* 56, 315 (2009).

74. 1 CONSTITUTIONAL CONVENTION, *JOURNAL OF THE RECONSTRUCTION CONVENTION, WHICH MET AT AUSTIN, TEXAS, JUNE 1, 1868*, at 248 (Tracy, Siemering & Co. 1870).

75. *Id.* at 152; *see generally* Mark Anthony Frassetto, *The Law and Politics of Firearms Regulation in Reconstruction Texas*, 4 *TEX. A&M L. REV.* 95 (2016).

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Texas was especially grave, other states and the western territories were all dealing with problems posed by the proliferation of handguns. As a result of this broad societal trend, firearms regulation increased dramatically during the era of the 14<sup>th</sup> Amendment across the nation.<sup>76</sup>

**Table One Post-Civil War State Constitutional Arms Bearing Provisions about Regulation**

Date	State	Provision
1868	Georgia	GA. CONST. OF 1868, art. I, § 14: [T]he right of the people to keep and bear arms shall not be infringed, but the General Assembly shall have power to prescribe by law the manner in which arms may be borne.
1868	W. Texas	W. TEX. CONST. OF 1868, Art. I, § 13: Every person shall have the right to keep and bear arms, in the lawful defence of himself or the government, under such regulations as the Legislature may prescribe.
1869	Texas	TEX. CONST. OF 1869, art. I § 13: Every person shall have the right to keep and bear arms, in the lawful defense of himself or the State, under such regulations as the Legislature may prescribe.

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76. Spitzer, *supra* note 31.

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1870	Tennessee	TENN. CONST. OF 1870, art. I, § 26: That the citizens of this State have a right to keep and to bear arms for their common defense. But the Legislature shall have power, by law, to regulate the wearing of arms with a view to prevent crime.
1875	Missouri	Mo. CONST. OF 1875, art. II, § 17: That the right of no citizen to keep and bear arms in defense of his home, person and property, or in aid of the civil power, when thereto legally summoned, shall be called in question; but nothing herein contained is intended to justify the practice of wearing concealed weapons.
1875	North Carolina	N.C. CONST. OF 1875, art. I, § 24. A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and as standing armies in time of peace, are dangerous to liberty, they ought not to be kept up, and the military should be kept under strict subordination to, and governed by, the civil power. Nothing herein contained shall justify the practice of carrying concealed weapon, or prevent the legislature from enacting penal statutes against said practice.

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1876	Colorado	COLO. CONST. OF 1876, art. II, § 13: That the right of no person to keep and bear arms in defense of his home, person and property, or in aid of the civil power when thereto legally summoned, shall be called in question; but nothing herein contained shall be construed to justify the practice of carrying concealed weapons.
1876	Texas	TEX. CONST. OF 1876, art. I, § 23: Every citizen shall have the right to keep and bear arms in the lawful defense of himself or the State; but the Legislature shall have power by law to regulate the wearing of arms with a view to prevent crime.
1877	Georgia	GA. CONST. OF 1877, art. I, § 22: The right of the people to keep and bear arms shall not be infringed, but the General Assembly shall have power to prescribe the manner in which arms may be borne.
1879	Louisiana	LA. CONST. OF 1879, art. III: A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be abridged. This shall not prevent the passage of laws to punish those who carry weapons concealed.

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1885	Florida	FLA. CONST. OF 1885, art. I, § 20: The right of the people to bear arms in defense of themselves and the lawful authority of the State, shall not be infringed, but the Legislature may prescribe the manner in which they may be borne.
1889	Idaho	IDAHO CONST. OF 1889, art. I, § 11: The people have the right to bear arms for their security and defense: but the legislature shall regulate the exercise of this right by law.
1889	Montana	MONT. CONST. OF 1889, art. III, § 13: The right of any person to keep or bear arms in defense of his own home, person, and property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but nothing herein contained shall be held to permit the carrying of concealed weapons.
1890	Mississippi	MISS. CONST. OF 1890, art. III, § 12: The right of every citizen to keep and bear arms in defense of his home, person or property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but the legislature may regulate or forbid carrying concealed weapons.

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1891	Kentucky	KY. CONST. OF 1891, § 1(7): The right to bear arms in defense of themselves and of the State, subject to the power of the General Assembly to enact laws to prevent persons from carrying concealed weapons.
1896	Utah	UTAH CONST. OF 1896, art. I, § 6: The people have the right to bear arms for their security and defense, but the legislature may regulate the exercise of this right by law.

51. The new focus on regulation embodied in these revised state arms bearing provisions was not a departure from traditional views of the robust scope of police power authority to regulate arms in the interests of public safety. This power was ancient and widely acknowledged as fundamental to Anglo-American law. Nor did the adoption of the Fourteenth Amendment change this fact. The recasting of these state constitutional texts represented an important shift in emphasis and a change in constitutional style, not substance.<sup>77</sup>

52. One of the motivating forces behind the push for the Fourteenth Amendment was the enactment of repressive black codes across the South, which often

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77. John Bingham, Speech, *in* CINCINNATI DAILY GAZETTE (Sept. 2, 1867), *as quoted in* Saul Cornell & Justin Florence, *The Right to Bear Arms in the Era of the Fourteenth Amendment: Gun Rights or Gun Regulation?* 50 SANTA CLARA L. REV. 1043, 1058 (2010).

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included restrictions on the right to keep and bear arms. Paramilitary violence against free people of color and Republicans in the South was among the most pressing threats to Reconstruction.<sup>78</sup> In response to the South Carolina Black Codes, Union General Daniel Sickles issued General Order No. 1.<sup>79</sup> Sickles not only affirmed a right to bear arms, but also reasserted the right to regulate arms, including bans on concealed carry. Crucially, Sickles restated the prevailing consensus that the right to bear arms did not sanction a right to travel armed onto private property. In *Bruen*, Justice Thomas singled out Sickles General Order No. 1 as the quintessential embodiment of the meaning of the right to keep and bear arms, noting that Sickles' views were consistent with both the ideals of 1791 and 1868.<sup>80</sup> General Order No. 1 offers one of the clearest pieces of evidence that the Hawai'i default rule about private property reflects a constitutional consensus deeply rooted in text, history, and tradition. Sickles' language was unambiguous on this point: "[t]he constitutional rights of all loyal and well-disposed inhabitants to bear arms will not be infringed; nevertheless this shall not be construed to sanction the unlawful practice of carrying concealed weapons, nor to authorize any person to enter with arms on the premises of another against his consent."<sup>81</sup>

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78. ERIC FONER, *THE SECOND FOUNDING: HOW THE CIVIL WAR AND RECONSTRUCTION REMADE THE CONSTITUTION* (2019).

79. See Darrell A. H. Miller, Peruta, *The Home-Bound Second Amendment, and Fractal Originalism*, 127 HARV. L. REV. F. 238, 241 (2014).

80. 142 S. Ct. at 2152.

81. A HANDBOOK OF POLITICS FOR 1868, at 36-38 (Edward McPherson ed., 1868).

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53. The author of Section One of the Fourteenth Amendment, John Bingham, reassured voters in Ohio that after the adoption of this Amendment, states would continue to bear the primary responsibility for “local administration and personal security.”<sup>82</sup> As long as state and local laws were racially neutral and favored no person over any other, the people themselves, acting through their representatives, were free to enact whatever reasonable measures were necessary to promote public safety and the common good.<sup>83</sup>

54. It would be difficult to overstate the significance of the growing perception among legislative bodies across the nation that America needed to enact strong laws to deal with the increased threat gun violence posed in post-Civil War America. Indeed, the number of laws enacted skyrocketed, as did the number of states passing such laws.<sup>84</sup> States fulfilled their role as laboratories of democracy by implementing a range of regulations aimed at curbing the problem of gun violence: limiting the sale of firearms, taxing particular types of weapons perceived to pose threats to public safety, imposing limits on the access of minors to weapons, and restricting the public places one

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82. Bingham, *supra* note 77.

83. For a discussion of how the courts wrestled with the meaning of the Fourteenth Amendment, see WILLIAM E. NELSON, *THE FOURTEENTH AMENDMENT: FROM POLITICAL PRINCIPLE TO JUDICIAL DOCTRINE* 148-51 (1998).

84. Spitzer, *supra* note 31.

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might carry arms.<sup>85</sup> Texas banned “[a]ny person carrying on or about his person, saddle, or in his saddle-bags, any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufactured or sold for the purpose of offense or defense, unless he has reasonable grounds for fearing an unlawful attack on his person, and that such ground of attack shall be immediate and pressing.”<sup>86</sup> The law aimed to preserve the peace and prevent the intimidation of free persons, the exact opposite of the claims of gun rights advocates who have insisted that gun control during Reconstruction was tainted by an insidious racist agenda.<sup>87</sup>

**Parks**

55. There were no modern-style parks in the era of the Second Amendment. The oldest urban public space in America, the Boston Common, was used primarily as a pasture, a place of execution, and a site for the militia to muster and drill.<sup>88</sup> Yet, even when used for militia

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85. *Id.*

86. *An Act to Regulate the Keeping and Bearing of Deadly Weapons, Apr. 12, 1871, reprinted in PASCHAL, supra note 69.*

87. Gun rights advocates have simply ignored the most recent scholarship on gun control and race relations during Reconstruction, including the new literature on gun regulation and enforcement. For more, see the discussion in Frassetto, *supra* note 75, at 102-04, and Rivas, *supra* note 70.

88. Steven R. Pendery, *Probing the Boston Common*, 43 *ARCHAEOLOGY* 42-47 (1990); SUZANNE SCHELD ET AL., *RETHINKING URBAN PARKS: PUBLIC SPACE AND CULTURAL DIVERSITY* 19-20 (2009);

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purposes, these public spaces were tightly regulated. Colonial Massachusetts prohibited coming to muster with a loaded firearm.<sup>89</sup> The Boston Commons and other similar urban spaces in existence during the Founding era shared little with modern parks. There was little need in the sparsely settled colonies to set aside areas for preservation or recreation given that the population of the colonies was expanding rapidly and remained hemmed in by various Indian nations reluctant to cede any further territory to Europeans. Moreover, by the time of the adoption of the Second Amendment, the nation was still 90% rural, and the majority of the population was engaged in agricultural pursuits.<sup>90</sup>

56. The creation of parks as we now know them began in the middle of the nineteenth century and was influenced by the slow impact of romanticism and the Transcendentalist ideas of visionaries such as Henry

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MICHAEL RAWSON, *EDEN ON THE CHARLES: THE MAKING OF BOSTON* 73 (2014).

89. RECORDS OF THE GOVERNOR AND COMPANY OF THE MASSACHUSETTS BAY IN NEW ENGLAND 98 (1853); 1866 Mass. Acts 197, An Act Concerning the Militia, § 120. The prohibition on bringing a loaded gun to muster stretches from 1632 to 1866 making it one of the longest standing regulations on firearms in the early Republic.

90. FORREST MCDONALD, *E PLURIBUS UNUM: THE FORMATION OF THE AMERICAN REPUBLIC, 1776-1790*, at 72 (1965); Peter C. Mancall, *Economic History of the United States: Precolonial and Colonial Periods*, in *OXFORD RESEARCH ENCYCLOPEDIA OF ECONOMICS AND FINANCE* (2021), <https://oxfordre.com/economics/view/10.1093/acrefore/9780190625979.001.0001/acrefore-9780190625979-e-480>.

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David Thoreau. The new idea of parks as places of relaxation, repose, and recreation gradually inspired a new attitude toward nature and public spaces. This new vision inspired urban planners, landscape architects, and government officials to embark upon an ambitious series of new parks. By the middle of the century these new public spaces, best exemplified by New York's Central Park, had become places of refuge from the congestion, grime, and stresses of city life. The creation of large urban public parks in the 1850s posed new challenges for those eager to preserve the peace and public safety: among the pressing issues was the regulation of firearms.<sup>91</sup> The expansion of urban parks, the creation of new state parks, and eventually the involvement of the federal government in land preservation intensified in the post-Civil War period.

57. From the outset modern parks banned firearms. Millions of Americans, including the entire population of the nation's five largest cities, lived under a firearms regulatory regime that prohibited firearms in parks. During the era of the Fourteenth Amendment, there was little disagreement that state and local governments had the authority under the police power to regulate and prohibit guns in parks.

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91. GALEN CRANZ, *THE POLITICS OF PARK DESIGN: A HISTORY OF URBAN PARKS IN AMERICA* 19 (1989).

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**Table Two**  
**Post-Civil War Limits on Public Carry**  
**in the Nation's Five Largest Cities**

Rank	City	Population (1990) <sup>92</sup>	Date of Law	Gun Prohibition in Parks
1	N.Y.	3,437,202	1861	X
2	Chicago	1,698,575	1881	X
3	Phila.	1,293,697	1869	X
4	St. Louis	575,238	1883	X
5	Boston	560,892	1886	X

Nor were such bans limited to the nation's largest municipalities.<sup>93</sup> For example, during this period, San Francisco enacted an ordinance prohibiting guns in its

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92. 1 U.S. CENSUS OFF., CENSUS REPORTS 1xix tbl. XXII (1901).

93. A Digest of the Laws and Ordinances of the City of Philadelphia from the Year 1701 to the 21 Day of June, 1887, at 513 (1887); The Revised Municipal Code of Ohio 196 (1899); Report of the Board of Park Commissioners of the City of Rochester, N.Y., 1888 to 1898, at 98 (1898); The Municipal Code of the City of Spokane, Washington: Comprising the Ordinances of the City ... Revised to October 22, 1896, at 316 (1896); Annual Report of the Park Commissioners of the City of Lynn for the Year Ending December 20, 1892, at 45 (1893); Charter and Ordinances of the City of New Haven: Together with Legislative Acts Affecting Said City 293 (1898); A Digest of the Acts of Assembly Relating to and the General Ordinances of the City of Pittsburgh 496 (1897); The Revised Ordinances of the City of Danville (1883); Law and Ordinances governing the Village of Hyde Park (1875); The Municipal Code of Chicago 391 (1881).

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parks, as did the cities of Boulder and St. Paul.<sup>94</sup> Statutes prohibiting possession of arms in these important public spaces were enacted in major urban areas of every region of the nation. As Table Two vividly illustrates, limits on arms in public parks were the norm in America in the era of the Fourteenth Amendment.

58. There was a close connection between the urban park movement and the rise of state parks. The primary architect behind New York's Central Park, Frederick Olmsted, also took a leading role in the creation of California's Yosemite State Park in the 1860s. Although Congress ceded the land to the state, the expense and difficulty of managing it led to the state returning control of the park to the federal government several decades later.<sup>95</sup> The federal government's decision to create Yellowstone in 1872 added yet another type of park to America's roster of public spaces.

59. The federal government also passed laws limiting firearms in its parks. Such regulations are especially important because federal lands were indisputably governed by the Second Amendment, irrespective of the

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94. San Francisco Municipal Reports 499 (1874); Ordinances of the City of Boulder 157 (1899); Proceedings of the Common Council of the City of Saint Paul 133 (1892).

95. NEY C. LANDRUM, *THE STATE MOVEMENT IN AMERICA: A CRITICAL REVIEW* (2013). On the creation of Yellowstone, *see* <https://www.loc.gov/collections/national-parks-maps/articles-and-essays/yellowstone-the-first-national-park/>

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incorporation doctrine.<sup>96</sup> The Secretary of the Interior underscored the danger posed by firearms in parks when he wrote this about Yellowstone: “Absolute prohibition of firearms in the park is recommended.”<sup>97</sup> Accordingly, the federal government prohibited guns in the park.<sup>98</sup>

60. The federal government also prohibited firearms in numerous other national parks in the early twentieth century, prior to the adoption of nationwide federal regulations in June 1936.<sup>99</sup> For example, in Hawai'i National Park—which at the time operated as a single park encompassing Haleakala on Maui as well as Mauna Loa and Kilauea on the Big Island—the federal government made clear that “[f]irearms are prohibited in the park except on written permission of the superintendent.”<sup>100</sup>

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96. REPORT OF THE DEPARTMENT OF THE INTERIOR . . . [WITH ACCOMPANYING DOCUMENTS] 499 (1899); REPORT OF THE SECRETARY OF THE INTERIOR FOR THE FISCAL YEAR 125 (1900).

97. THE ABRIDGMENT: CONTAINING MESSAGES OF THE PRESIDENT OF THE UNITED STATES TO THE TWO HOUSES OF CONGRESS WITH REPORTS OF DEPARTMENTS AND SELECTIONS FROM ACCOMPANYING PAPERS 618 (1893).

98. ANNUAL REPORT OF THE SUPERINTENDENT OF THE YELLOWSTONE NATIONAL PARK TO THE SECRETARY OF THE INTERIOR .... UNITED STATES: U.S. GOVERNMENT PRINTING OFFICE 19 (1898).

99. FIREARMS REGULATION IN THE NATIONAL PARKS, 1897-1936 (2008), <http://npshistory.com/publications/ranger/np-firearms-regs-history.pdf>.

100. UNITED STATES DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE, RULES AND REGULATIONS: HAWAI'I NATIONAL PARK 14 (1927) <http://npshistory.com/brochures/havo/1927.pdf> (“Firearms

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61. The emergence of modern style parks in the middle of the nineteenth century was a response to profound changes in American society, particularly urbanization. These places of repose and recreation were designed to offer Americans places to escape the increasingly chaotic world they encountered in the expanding cities of the nineteenth century. From the outset, the regulations governing these spaces prohibited firearms. State parks were motivated by similar impulses. Indeed, Frederick Olmsted, one of the leading landscape architects of the period also took a prominent role in helping to create these important public spaces. When the federal government organized its first national parks, it also tightly regulated the carriage of arms in public lands. Given that arms have been tightly regulated, and in many instances prohibited in parks since their creation, Hawai'i's statute limiting guns in parks is well within the long history of firearms regulation in America.

**IV. CONCLUSION**

62. The Hawai'i law at issue in this case is analogous to a long-established tradition of firearms regulation in America, beginning in the colonial period and stretching across time to the present. This venerable tradition of

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are prohibited in the park except on written permission of the superintendent, who also has authority to waive inquiry as to the possession of firearms by visitors traveling through the park to places beyond.”). Hawai'i National Park was created in 1916. *See generally* National Park Service, Federal Laws Specific to Hawai'i Volcanoes National Park, [https://www.nps.gov/havo/learn/management/mgmtdocs\\_fedlaws.htm](https://www.nps.gov/havo/learn/management/mgmtdocs_fedlaws.htm).

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using police power authority to craft specific laws to meet shifting challenges has continued to the present day. The adaptability of state and local police power provided the flexibility governments needed to deal with the problems created by changes in firearms technology and gun culture.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. *See* 28 U.S.C. 1746.

Executed on July 13, 2023 at Redding, CT.

/s/ \_\_\_\_\_  
Saul Cornell

**APPENDIX H — EXPERT DECLARATION  
OF DR. BRENNAN GARDNER RIVAS**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD; ALISON WOLFORD; ATOM  
KASPRZYCKI; HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF THE STATE  
OF HAWAII; MAUI COUNTY,

*Defendants.*

**DECLARATION OF  
DR. BRENNAN GARDNER RIVAS**

1. I am over the age of eighteen (18) years, competent to testify to the matters contained in this declaration, and testify based on my personal knowledge and information.

2. I hold a Ph.D. in history from Texas Christian University, awarded in 2019. My expertise includes historical weapon regulations in the United States. I have

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several publications on this topic, including peer-reviewed articles in the *Southwestern Historical Quarterly*, and a chapter in an edited collection forthcoming by Oxford University Press; last year, my article, “Enforcement of Public Carry Restrictions: Texas as a Case Study” (June 2022), was published in the *UC Davis Law Review*.

3. I am currently completing a book manuscript, based upon my dissertation research, which traces the development and implementation of weapon and firearm policies in Texas across a century-long period. This manuscript has undergone the first round of peer-review and is currently under contract with an academic press.

4. I have provided expert analysis and expert witness testimony in *Miller v. Bonta*, No. 3:19-cv-01537-BEN-JLB (S.D. Cal.); *Duncan v. Bonta*, No. 17-1017-BEN-JLB (S.D. Cal.); *Angelo v. District of Columbia*, No. 1:22-cv-02256-RC (D. D.C.); *Christian v. Nigrelli*, No. 22-cv-00695 (JLS) (W.D. N.Y.); *Frey v. Nigrelli*, No. 21 Civ. 5334 (NSR) (S.D. N.Y.); *Brumback v. Ferguson*, No. 1:22-cv-03093-MKD (E.D. Wash.); *Sullivan v. Ferguson*, No. 3:22-cv-5403 (W.D. Wash.); *Siegel v. Platkin*, No. 22-CV-7463 (RMB) (AMD) (D. N.J.); *NAGR v. Campbell*, No. 1:22-cv-11431-FDS (D. Mass.); *Oregon Firearms Federation, Inc. v. Kotek*, No. 2:22-cv-01815-IM (D. Ore.); *NSSF v. Jennings*, No. 22-cv-01499-RGA (D. Del.); *Chavez v. Bonta*, No. 3:19-cv-01226-L-AHG (S.D. Cal.) (f/k/a *Jones v. Bonta*); *Nguyen v. Bonta*, No. 3:20-cv-02470-WQH-BGS (S.D. Cal.); *Baird v. Bonta*, No. 2:19-cv-00617-KJM-AC (E.D. Cal.); *Nichols v. Bonta*, No. 3:11-cv-09916-SJO-SS (C.D. Cal.); *Wiese v. Bonta*, No. 2:17-cv-00903-WBS-KJN

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(E.D. Cal.). I am currently working on potential expert witness reports and declarations that may be provided in other jurisdictions. I have been deposed and testified at trial in one matter, *Oregon Firearms Federation, Inc. v. Kotek*, No. 2:22-cv-01815-IM (D. Or.).

5. A true and correct copy of my current curriculum vitae is attached as **Exhibit A** to this declaration.

6. I have been retained by the State of Hawai'i to render expert opinions in this case. I make this declaration on the basis of my training, professional expertise, and research. For my work in this case, I am being compensated at a rate of \$200/hour for preparatory work and \$325/hour for court work.

7. For this engagement, I was asked to provide expert testimony about historical gun regulations that pertained to public carry laws, sensitive places, and nineteenth century gun regulations in Texas.

8. I have compiled relevant sources to the best of my ability given the expedited nature of the briefing schedule on Plaintiffs' Motion for Temporary Restraining Order. If given more time, I could likely provide the Court with a more comprehensive understanding of relevant historical gun regulations.

9. This declaration proceeds in four parts: an overview of the general history of public carry restrictions in the North American colonies and the United States; an explication of a sensitive places law enacted in Texas

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in 1870-1871 and description of the socio-political context that prompted its enactment; an explanation of how and why there is reason to believe that as-yet unidentified municipal ordinances on this subject existed in the United States; and a brief discussion of why more time is necessary to explore the history of urban gathering places with a view toward the legality and propriety of carrying weapons there.

**The History of Public Carry Laws in America**

10. Americans of the late eighteenth and nineteenth centuries had laws that broadly prohibited the carrying of firearms and other deadly weapons in public. Early versions of these regulations, particularly those enacted in the eighteenth century by colonial and early American legislatures, tended to draw heavily from legal language with deep roots in the English common law tradition, reaching at least as far back as the Statute of Northampton from 1328.<sup>1</sup> The Statute of Northampton generally prohibited the carrying of arms in “Fairs, Markets, nor in the Presence of the Justices or Ministers nor in no Part elsewhere.”<sup>2</sup> The public spaces specifically named

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1. Patrick J. Charles, “The Faces of the Second Amendment Outside the Home: History versus Ahistorical Standards of Review,” *Cleveland State Law Review* 60, no. 1 (2012), 7-40; Saul Cornell, “The Long Arc of Arms Regulation in Public: From Surety to Permitting, 1328-1928,” *UC Davis Law Review* 55, no. 5 (June 2022), 2560-2566.

2. 2 Edw. 3, c. 3 (1328) (Eng.) (Ex. B); *see also* 25 Edw. 3, st. 5, c. 2, § 13 (1350) (Eng.) (Ex. C) (if “any Man of this Realm ride armed covertly or secretly with Men of Arms against any other... shall be judged Treason”).

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and protected under the Statute were the very public areas that people frequented in their daily lives—the town markets and gatherings, and the town itself under the direction of local officials, formed the very heart of community life.

11. This tradition was absorbed into American law, where numerous colonies and states enacted similar measures that forbade someone to “go or ride” armed in public spaces. An early example provided that individuals shall neither “go nor ride armed by night nor by day, in fair or markets, or in other places, in terror of the Country,<sup>3</sup>

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3. In *New York State Rifle & Pistol Ass’n v. Bruen*, 142 S. Ct. 2111, 2144-50 (2022), the Supreme Court suggested that the phrases “to the terror of the country” and “to the terror of the people” cabined these early statutes to prohibiting firearm carry only in a threatening manner. But the latest research, published after *Bruen*, shows that, according to common law, the act of carrying deadly weapons in public spaces was inherently terrifying and therefore a breach of the peace. See Saul Cornell, “The Long Arc of Arms Regulation in Public: From Surety to Permitting, 1328-1928,” *U.C. Davis Law Review* 55 (June 2022), 2555-2556 (“There was no requirement that one establish an intent to terrify or that the armed travel terrorized any specific person, the injury was to the King’s Peace and sovereignty.”); Patrick J. Charles, “The Fugazi Second Amendment: Bruen’s Text, History, and Tradition Problem and How to Fix It,” *Cleveland State Law Review* 71, no. 3 (2022, forthcoming), draft p.12 (“What [English jurists’] restatements inform is that by the early-to-mid-seventeenth century, England’s preeminent legal minds understood that the act of carrying dangerous weapons was sufficient to amount to an affray, ‘strike a feare’ or ‘strikethe a feare.’”) [draft available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4222490](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4222490)].

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upon pain of being arrested and committed to prison.”<sup>4</sup> Under this scheme, no one was permitted to carry arms into public areas without having a justifiable reason. Anyone violating this rule would have been subject to questioning by local officials and “bound” to the peace through a peace bond or surety.<sup>5</sup>

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4. 1786 Va. Laws 33, ch. 21, An Act forbidding and punishing Affrays (Ex. D). A non-exhaustive list of additional examples includes: 1835 Mass. Acts 750 (“If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury, or violence to his person, or to his family or property, he may on complaint of any person having reasonable cause to fear an injury, or breach of the peace, be required to find sureties for keeping the peace.”) (Ex. E); Francois Xavier Martin, *A Collection of Statutes of the Parliament of England in Force in the State of North Carolina*, 60-61 (Newbern 1792) (Ex. F) (“...nor to go nor ride armed by night nor by day, in fairs, markets nor in the presence of the King’s Justices, or other ministers, nor it [sic, likely “in”] no part elsewhere, upon pain to forfeit their armour to the King, and their bodies to prison at the King’s pleasure”); see also 1821 Me. Laws 285, ch. 76, § 1 (Ex. G) (simplified to a requirement that officials “cause to be staid and arrested, all affrayers, rioters, disturbers or breakers of the peace, and such as shall ride or go armed offensively, to the fear or terror of the good citizens of this State”).

5. The peace bond was one of many processes inspired by America’s common law heritage. See Laura Edwards, *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* (Chapel Hill: University of North Carolina Press, 2009), 73-74, 96; Saul Cornell, “History, Text, Tradition, and the Future of Second Amendment Scholarship: Limits on Armed Travel under Anglo-American Law, 1688-1868,” *Law and Contemporary Problems* 83, no. 3

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12. In the nineteenth century, the language of American public carry regulations began to shift away from the inherited language of common law, and toward more explicit statutory prohibitions. These public carry laws generally prohibited the concealment of certain specified weapons in public spaces, and are therefore known as concealed-carry laws. The approach of prohibiting the carrying of concealed weapons spread rapidly, including in slaveholding states and those removed from the Atlantic coast.<sup>6</sup>

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(Summer 2020), 73-95; Saul Cornell, “Right to Carry Firearms outside of the Home: Separating Historical Myths from Historical Realities,” *Fordham Urban Law Journal* 39, no. 5 (October 2012), 1719-1723. Edwards’s passage on peace bonds is worth quoting at length: “Peace bonds threw enforcement back on the community, summoning family, friends, and neighbors to police the troublemakers. Bonds required one or more other people to put up the amount, making them liable if the accused broke the peace again. That economic obligation represented the signers’ promise to keep the offender in line. Peace bonds put everyone else in the community on notice as well, investing them with the responsibility of policing the peace until the end of the probation period.”

6. Examples include: 1813 La. Acts 172, An Act Against Carrying Concealed Weapons, and Going Armed in Public Places in an Unnecessary Manner, § 1 (Ex. H) (“That from and after the passage of this act, any person who shall be found with any concealed weapon, such as a dirk, dagger, knife, pistol, or any other deadly weapon concealed in his bosom, coat, or in any other place about him that do not appear in full open view, any person so offending, shall on conviction thereof before any justice of the peace, be subject to pay a fine...”); Revised Statutes of the State of Arkansas, Adopted at the October Session of the General

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13. The language of concealed carry laws might at first suggest that open carry of firearms was accepted and commonplace, but that was not the case. Individuals generally did not view concealed carry laws as giving permission to openly carry in populated places during a person’s ordinary activities.<sup>7</sup> For example, in 1843, an appellate court in North Carolina stated, “No man amongst us carries [a firearm] about with him, as one of his every day accoutrements—as a part of his dress—and never we trust will the day come when any deadly weapon will be worn or wielded in our peace loving and law-abiding State, as an appendage of manly equipment.”<sup>8</sup> And a Louisiana case from 1856 held that a partially visible weapon was a violation of the concealed carry law because it was “the result of accident or want of capacity in the pocket to contain, or clothes fully to cover the weapon, and not the extremely unusual case of the carrying of such weapon in full open view, and partially covered by the pocket or clothes.”<sup>9</sup>

14. Public carry laws in force during the late eighteenth and nineteenth centuries, whether they

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Assembly of Said State, A.D. 1837 (Ex. I) (“Every person who shall wear any pistol, dirk, butcher or large knife, or a sword in a cane, concealed as a weapon, unless upon a journey, shall be adjudged guilty of a misdemeanor, and upon conviction thereof, in the county in which the said offence shall have been committed, shall be fined in any sum not less than twenty-five dollars...”).

7. Mark Anthony Frassetto, “The Myth of Open Carry,” *U.C. Davis Law Review* 55 (June 2022).

8. *State v. Huntley*, 25 N.C. 418 (1843).

9. *State v. Smith*, 11 La. Ann. 633 (1856).

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employed language from English common law or took the shape of concealed-carry laws, applied to public spaces in American communities large and small.

**Firearm Prohibitions in Texas during the Reconstruction Era**

15. In 1870, the State of Texas enacted a law prohibiting individuals from carrying firearms in a broad range of sensitive places.<sup>10</sup> The statute provided:

That if any person shall go into any church or religious assembly, any school room or other place where persons are assembled for educational, literary or scientific purposes, or into a ballroom, social party or other social gathering composed of ladies and gentlemen, or to any election precinct on the day or days of any election, where any portion of the people of this State are collected to vote at any election, or to any other place where people may be assembled to muster or to perform any other public duty, or any other public assembly, and shall have about his person a bowie-knife, dirk or butcher-knife, or fire-arms, whether known as a six shooter, gun or pistol of any kind, such person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not less than fifty or more than five hundred dollars, at the discretion of the

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10. 1870 Tex. Gen. Laws 63, ch. 46, § 1 (Ex. J).

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court or jury trying the same; provided, that nothing contained in this section shall apply to locations Subject to Indian depredations; and provided further, that this act shall not apply to any person or persons whose duty it is to bear arms on such occasions in discharge of duties imposed by law.

16. The historical context surrounding the 1870 Texas law is crucial to understanding its purpose. Several social and cultural forces converged during Reconstruction to make that period especially tumultuous in Texas and the South more broadly. One critical part of lawmakers' responses to these new societal concerns was to prohibit arms in certain public spaces, especially those that featured large gatherings of people. Although not all states enacted legislation similar to the 1870 law, those other states were not confronted with the unique social concerns in Texas that resulted in passage of the 1870 law.

17. In Texas, the defeat of the Confederate cause led to political instability, racial violence, and a profound distrust of government institutions. Confederate sympathies there still ran high because Texans had not been conquered or occupied by U.S. Army forces during the war.

18. Meanwhile, revolvers were flooding American consumer markets. After Samuel Colt's patent on his revolver design expired in 1857, other manufacturers began producing similar models for the United States military during the Civil War. After the war, demobilization ended

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those contracts, and gunmakers turned to American consumers to buy their pistols. The net result was more and cheaper pistols throughout the country,<sup>11</sup> including in areas plagued by violence and social dislocation, such as postbellum Texas.

19. Another factor involved in Texas's experience with gun regulation involved demographic changes. Since the 1820s, Texas had consistently drawn immigrants from other parts of the United States, but that growth accelerated rapidly after statehood and the conclusion of the U.S.-Mexican War. In just the three years between 1847 and 1850, the population grew from an estimated 142,000 to 212,295 (a growth of nearly fifty percent). By the time of the 1860 census, the population reached 604,215.<sup>12</sup> Even during the Civil War, tens of thousands of people moved to Texas, and the pace of migration accelerated rapidly between 1870 and 1900 as the state's population of

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11. Colt's Army revolvers cost about \$20 at the time of the Civil War, but subsequent entrants into the market sold small pocket pistols for as little as \$1.40. For example, *see* digitized Sears and Roebuck catalog (1898), pp. 365-367. Regardless of caliber, the pistols from Colt's ran about \$12 to \$13 in the catalog but retailed elsewhere for something closer to \$18 (*see* p. 367). Meanwhile, the smaller caliber pocket pistols from other brands could be ordered for as little as \$1.40 (*see* p. 365). For the 1898 Sears & Roebuck catalog online, *see* <https://archive.org/details/consumersguideno00sear/page/365/mode/1up?q=pistol>.

12. On population figures in Texas between 1847 and 1860, *see* Randolph B. Campbell, *Gone to Texas: A History of the Lone Star State* (New York: Oxford University Press, 2003), 205.

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roughly 800,000 grew to more than 3,000,000.<sup>13</sup> Many (and possibly most) of these newly engrafted Texans intended to farm or ranch, meaning that they would live outside of the towns and market centers; but rail construction enabled industrial development and the formation of towns, which led to a period of urbanization in postbellum Texas.<sup>14</sup> The market towns of Texas—rail stops and county seats—created more opportunities for altercations that could result in violence and crime.

20. Following the Civil War, Texans from all walks of life, from fire-eating secessionists to reluctant Confederates and dedicated unionists, all recognized that there was a gun problem in their state. The governor elected in 1866, who represented a coalition of Confederate sympathizers called Conservatives, specifically asked the legislature to do something about the problem. He said he did not believe “that it was intended by the Constitution to convey the idea that men and boys, vagabonds and vagrants, were to be licensed to have arms about their persons on all occasions.”<sup>15</sup> He proposed a tax on all “pistols and weapons carried about the person,” though disagreements about rates, terms, and other details prevented the proposal from being enacted.<sup>16</sup>

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13. On population figures in Texas between 1870 and 1900, see Campbell, *Gone to Texas*, 304.

14. Texas went from having only 9 urban centers of 2,500 residents or more in 1870 to having 42 in 1900. See Campbell, *Gone to Texas*, 307.

15. *House Journal* (1866), 199-200.

16. *Id.*

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21. During the late 1860s, the Conservatives fell from power in favor of a fledgling Republican party composed of Freedpeople and Unionists. They, too, agreed that there was a gun problem in Texas, and they determined to do something about it. Republican leaders at the convention agreed with the Conservatives about the need for gun regulation, but their experiences of persecution at the hands of secessionists, Confederates, Conservatives and others (all of whom ultimately coalesced into a resurgent Democratic party) made it a priority for them. Republicans in 1868 did much the same thing that we do now: they gathered as much information as possible about crime in order to understand the problem they faced and inform the route they might take to address it. They created a special Committee on Lawlessness and Violence that requested all counties to send information about crimes committed since 1865. Not all counties participated, but the committee's reports told a "frightful story of blood."<sup>17</sup> The committee ultimately uncovered 939 homicides between 1865 and the summer of 1868, a disproportionate number of which involved Freedpeople killed at the hands of whites.<sup>18</sup> Convention delegates also received the annual report from military authorities, which told of

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17. *Journal of the Reconstruction Convention* (1868-1869), 194.

18. *Journal of the Reconstruction Convention* (1868-1869), 193-203, 194. White and black Texans were murdered in about equal numbers, which is itself a dramatic overrepresentation of the state's African American population, which constituted about 30% of the state overall. To make matters worse, the overwhelming majority of freedman deaths were committed by whites (373 of 429), yet only ten white deaths came at the hands of freedmen.

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the rise of the Ku Klux Klan, conspiracies to intimidate Black voters, and declared that “the civil law east of the Trinity river is almost a dead letter.”<sup>19</sup> The information gathered by Republicans in 1868 and 1869 became the evidentiary foundation for a law-and-order platform that their candidates promoted in upcoming campaigns.<sup>20</sup>

22. As a result of these factors, the legislative session that met in 1870 enacted a law for the state that prohibited all firearms and weapons in certain public spaces. A member of the state senate introduced the bill that ultimately became the 1870 sensitive spaces law, which made it a misdemeanor for anyone to “have about his person” deadly weapons at public gatherings. The prohibited weapons were “A bowie knife, dirk or butcher knife, or firearms, whether known as a six-shooter, gun, or pistol of any kind.” It is important to note that this bill included the terms “firearms” and “gun,” which would have applied to rifles and shotguns as well as pistols. Even more exhaustive than the list of prohibited weapons was that of the social settings in which public carry would be illegal: “any church or religious assembly, any school room or other place where persons are assembled for educational, literary or scientific purposes, or into a ball room, social party or other social gathering composed of ladies and gentlemen, or to any election precinct on

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19. See Report and Declaration of Special Committee on the condition of the State concerning elections, in *Journal of the Reconstruction Convention* (1868-1869), 107-115.

20. *Journal of the Reconstruction Convention* (1868-1869), 194.

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the day or days of any election, where any portion of the people of this State are collected to vote at any election, or to any other place where people may be assembled to muster or perform any other public duty, or any other public assembly. . . .”<sup>21</sup>

23. The primary exemption created by the 1870 sensitive spaces law was a proviso for “any person or persons whose duty it is to bear arms on such occasions in discharge of duties imposed by law.”<sup>22</sup> This would have effectively limited the carrying of weapons to peace officers and active-duty soldiers or militiamen engaged in their duties. Armed soldiers or other officials frequently guarded polling stations in Texas during Reconstruction due to the high incidence of voter fraud. The drafters in 1870 likely also envisioned sheriffs, deputies, marshals, and constables who were loyal to the United States as well as the new State Police force and active-duty members of the militia.<sup>23</sup>

24. Subsequent iterations of the 1870 law incorporated the same exception, though they deviated slightly from the original language and structure. A later reenactment of the same law embedded the exception within one of

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21. 1870 Tex. Gen Laws 63, Ch. 46, § 1 (Ex. J).

22. *Id.*

23. On the Texas State Police, an organization that existed during Republican rule in Texas, see John G. Johnson, “State Police,” *Handbook of Texas Online*, <https://www.tshaonline.org/handbook/entries/state-police>, published by the Texas State Historical Association.

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the several clauses that made up the list of weapon-free spaces. It prohibited the carrying of weapons in various public spaces “or to any other place where people may be assembled to muster, or to perform any other public duty, (except as may be required or permitted by law),... .”<sup>24</sup> The context surrounding the exception clearly indicates that the drafters intended it to cover the carrying of arms to militia musters or by duly authorized persons performing a public duty; in other words, the exception applied to peace officers as well as soldiers and militiamen in actual service. When state lawmakers issued a revised penal code in 1879, the exception was relocated to a subsequent article which read: “The preceding article shall not apply to peace officers or other persons authorized or permitted by law to carry arms at the places therein designated.”<sup>25</sup> Even though the format and phrasing of the exception changed, its substance did not—the exception was for peace officers and active-duty militia. The exception would not have reached ordinary, civilian gunowners, as there was no general gun permitting scheme in Texas at the time.

25. Realizing that the sensitive places statute was not enough to sufficiently curb the violence in their communities, the Texas legislature in 1871 enacted a more comprehensive deadly weapons prohibition that incorporated the sensitive places law passed one year

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24. 1871 Tex. Gen. Laws 25, ch. 34 § 1 (Ex. K).

25. Penal Code of the State of Texas, (1879), Title X, Offenses Against the Public Peace, Chapter 4, Unlawfully Carrying Arms, § 321 (Ex. L).

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earlier.<sup>26</sup> Section 1 of the 1871 law prohibited both concealed and open carry of deadly weapons in public altogether while Section 3 expanded the prohibition on carrying deadly weapons in sensitive places. Lawmakers added as sensitive places assemblies for “amusement,” like “any circus, show, or public exhibition of any kind,” as well as those assemblies “for educational or scientific purposes.”<sup>27</sup> In 1879, the statute and its several sections were reformatted in the penal code as a chapter concerning the unlawful carrying of arms.<sup>28</sup> The sensitive places law and its exception became Articles 320 and 321.

26. In 1872, a series of convictions for unlawfully carrying arms made their way to the state supreme court. The Defendant William Daniels had been convicted under Section 3 of the 1871 deadly weapon law, which was the updated sensitive places provision. He had gone to a church service with the handle of a butcher knife visible in his waistband. Two other appellants, William English and G. W. Carter, had been convicted under Section 1, which prohibited carrying deadly weapons (open or concealed) upon one’s person or in one’s saddlebags. The three cases were consolidated into one case, called *English v. State*<sup>29</sup>, which addressed certain questions about Texans’ constitutional and fundamental rights to carry weapons. A distinguished attorney who later joined the state supreme

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26. 1871 Tex. Gen. Laws 25, ch. 34 § 1 (Ex. K).

27. *Id.*

28. Penal Code of the State of Texas, § 318-323 (Ex. L).

29. *English v. State*, 35 Tex. 473 (1872).

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court argued that the 1871 deadly weapon law violated the Second Amendment to the US Constitution, that it violated the Article I, Sec. 13 of the Texas Constitution of 1869<sup>30</sup>, and that it deprived Texans of their customary right to self-defense.<sup>31</sup> The court profoundly disagreed with these claims.

27. The Chief Justice stated emphatically that “No kind of travesty, however subtle or ingenious could so misconstrue this provision of the constitution of the United States, as to make it cover and protect that pernicious vice, from which so many murders, assassinations, and deadly assaults have sprung, and which it was doubtless the intention of the legislature to punish and prohibit.”<sup>32</sup> The court went on to say that: “[W]e do not intend to be understood as admitting for one moment, that the abuses prohibited are in any way protected either under the state or federal constitution. We confess it appears to us little short of ridiculous, that any one should claim the right to carry upon his person any of the mischievous devices inhibited by the statute, into a peaceable public assembly, as, for instance into a church, a lecture room, a

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30. “Every person shall have the right to keep and bear arms, in the lawful defence of himself or the State, under such regulations as the Legislature may prescribe.”

31. The opinion did not mention it, but Section 2 of the law provided that anyone convicted of publicly carrying a prohibited weapon could plead self-defense at trial; that exception did not technically apply to the sensitive places provision outlined in Section 3.

32. *English*, 35 Tex. 473.

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ball room, or any other place where ladies and gentlemen are congregated together.”<sup>33</sup>

28. The decision in *English* ultimately rested upon state police power to affirm the constitutionality of the deadly weapon law. The court held that whatever conduct offends against public morals or public decency comes within the range of legislative authority.<sup>34</sup> The goal of a weapon-free public sphere, then, justified the enactments required to achieve it. Furthermore, the justices did not believe that the Texas law deviated from the national norm. “It is not our purpose to make an argument in justification of the law. The history of our whole country but too well justifies the enactment of such laws. This law is not peculiar to our own state, nor is the necessity which justified the enactment (whatever may be said of us to the contrary) peculiar to Texas. It is safe to say that almost, if not every one of the states of this Union have a similar law upon their statute books, and, indeed, so far as we have been able to examine them, they are more rigorous than the act under consideration.”<sup>35</sup> A subsequent court, this one staffed with Democrats rather than Republicans, reaffirmed the constitutionality of the deadly weapon law in a case decided in 1875.<sup>36</sup>

29. In the late 1870s and throughout the 1880s, Texas appellate judges consistently applied the sensitive places

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33. *Id.* at 478-79.

34. *Id.* at 473.

35. *Id.* at 479.

36. *State v. Duke*, 42 Tex. 455 (1875).

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law without questioning its constitutionality. In 1878 they decided that a Justice of the Peace court qualified as a “public assembly” when it was in session hearing a cause.<sup>37</sup> The same year, the court determined that a man deputized to carry out a specific arrest did not qualify as a peace officer exempt from the weapon ban at polling places.<sup>38</sup> In 1889, a teacher feared that local residents would interfere with an entertainment event taking place at his school, so he took a pistol with him (and ended up brandishing it). Texas appellate judges forcefully condemned the idea that teachers were authorized to carry weapons in schoolhouses, saying that “such an effect could not be other than pernicious, and should not be tolerated.”<sup>39</sup>

30. Texas judges also evaluated the sensitive-places cases that involved claims of self-defense and the carrying of weapons to assemblies on private property. Their handling of these questions shows that nineteenth-century Texas courts prioritized the safety of the general public

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37. *Summerlin v. State*, 1878 3 Tex. Ct. App. 444 (1878).

38. *Snell v. State*, 4 Tex. App. 171 (1878)

39. *Alexander v. State*, 11 S.W. 628 (Tex. App. 1889). The passage is worth quoting in full: “We can not believe that it was the purpose and intent of the Legislature to permit school teachers to carry prohibited weapons upon their persons in their school rooms among their pupils, or on the occasion of public assemblies in such school rooms. The law does not in terms accord them such a privilege, and, without a clearly expressed exception in such case, this court will not sanction a defense, the effect of which would be to authorize every school teacher in the State to carry prohibited weapons upon his person in our school rooms. Such an effect could not be other than pernicious, and should not be tolerated.”

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over the specific concerns or preferences of individual weapon-carriers. In two separate cases (one in 1877 and another in 1878), Texas appellate judges determined that the exception to the deadly weapon law for self-defense applied exclusively to Section 1 of the 1871 statute relating to open and concealed carry, not to Section 3 relating to gatherings and assemblies.<sup>40</sup> A person fearing an imminent and deadly attack could carry a weapon in violation of Section 1 and argue self-defense at trial if or when he/she was arrested for such behavior; but a person carrying a weapon under such circumstances could not then venture into any of the gathering places enumerated in Section 3 because doing so posed too great a danger to the safety of the general public. The court stated, “Nor does it matter how much or with what good reason I may be in dread of an immediate and pressing attack upon my person from a deadly enemy; the imminence of such danger affords no excuse in my wearing deadly weapons to church, or in a ball-room, or other places mentioned where his attack may be made and the lives of innocent people there assembled placed in jeopardy or sacrificed.”<sup>41</sup>

31. In one of these cases, the defendant was tasked with being a “door-keeper and general manager, with authority to preserve peace and good order” at a ball, and toward that end, the owner of the establishment (a woman) had provided him a pistol to keep on his person throughout the evening. The court affirmed his conviction,

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40. *Livingston v. State*, 3 Tex. Ct. App. 74 (1877); *Owens v. State*, 3 Tex. Ct. App. 404 (1878).

41. *Owens v. State*, 3 Tex. Ct. App. 404 (1878).

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saying that the exceptions for carrying weapons in one's home or place of business did not apply when other people were gathered there in assemblages that fell under Section 3. The court reasoned that: "The fact that I am owner of the premises gives me no right to carry deadly weapons to the terror, annoyance, and danger of a social gathering which I may have invited to my own house, however much I may be protected in carrying them when no one is there or likely to be endangered by them but my own family."<sup>42</sup>

32. The majority opinion in *NYSRPA v. Bruen* treated the 1871 Texas statute as an outlier, but its discussion was limited to Section 1 of that law banning open and concealed carry of arms in public altogether.<sup>43</sup> Section 3 of the 1871 law prohibiting carry in sensitive places was not unique. *English* recognized as much when it concluded, "This law is not peculiar to our own state, nor is the necessity which justified the enactment (whatever may be said of us to the contrary) peculiar to Texas."<sup>44</sup> That conclusion was not wrong as many states around that time enacted similarly broad sensitive places prohibitions. For example, in 1869, Tennessee lawmakers prohibited the carrying of deadly weapons "concealed or otherwise" at elections or "any fair, race course, or other public assembly of the people."<sup>45</sup> Similarly in 1870, Georgia

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42. *Id.*

43. 142 S. Ct. at 2153.

44. *English*, 35 Tex. at 479.

45. Ch. 22, 1869 Tenn. Pub. Acts 23[22] (36th Assembly, 1st Sess.), "An Act to Amend the Criminal Laws of the State," §2

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lawmakers prohibited the carrying of deadly weapons “to any court of justice, or any election ground or precinct, or any place of public worship, or any other public gathering in this State, except militia muster-grounds.”<sup>46</sup> Laws in effect in Missouri in 1879 and Oklahoma Territory in 1890 were nearly identical to the sensitive places law from Texas.<sup>47</sup> Vermont and Mississippi both prohibited weapons inside schools, with the Mississippi legislature prohibiting students at colleges from possessing deadly weapons on campuses or within two miles of them (effectively disarming college students within the limits of college

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(Ex. M). The section read in full: “That it shall not be lawful for any qualified voter or other person attending any election in this State, or for any person attending any fair, race course, or other public assembly of the people, to carry about his person, concealed or otherwise, any pistol, dirk, Bowie-knife, Arkansas toothpick, or weapon in form, shape, or size resembling a Bowie knife or Arkansas tooth-pick, or other deadly or dangerous weapon.” The following section (§3) stated: “That all persons convicted under the second section of this act shall be punished by fine of not less than fifty dollars, and by imprisonment, or both, at the discretion of the court.”

46. Act No. 285, 1870 Ga. Laws 421 (Ex. N). The list of prohibited weapons included “any dirk bowie-knife, pistol or revolver, or any kind of deadly weapon.” There was also no implicit or explicit exception for open carry. Violators convicted received a fine (\$20-50), imprisonment (10-20 days), or both.

47. *Revised Statutes of the State of Missouri* (1879), ch.24, §1274 (Ex. O); 1890 Okla. Stat. 495-96 (Ex. P).

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towns).<sup>48</sup> Other laws prohibited the carrying of weapons at or near polling places, churches, and parks.<sup>49</sup>

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48. *Annotated Code of the General Statute Laws of the State of Mississippi* (1892), “Crimes and Misdemeanors,” §1030 (Ex. Q). “A student at any university, college, or school, who shall carry, bring, receive, own, or have on the campus, college or school grounds, or within two miles thereof, any weapon the carrying of which concealed is prohibited, or a teacher instructor, or professor who shall knowingly suffer or permit any such weapon to be carried, or so brought, received, owned, or had by a student or pupil, shall be guilty of a misdemeanor, and, on conviction, be fined not exceeding three hundred dollars or imprisoned in the county jail not exceeding three months, or both.” *Laws of Vermont, Special Session* (1891), No. 85, §2 (Ex. R). “A person who shall carry or have in his possession while a member of and in attendance upon any school, any firearms, dirk knife, bowie knife, dagger or other dangerous or deadly weapon shall, upon conviction thereof, be fined not exceeding twenty dollars.”

49. 1870 La. Acts 159–60, “An Act to Regulate the Conduct and to Maintain the Freedom of Party Election,” § 73 (Ex. S) (no carry concealed or unconcealed within a half mile of polling places on election day or registration places on days of voter registration); George Washington Paschal, *A Digest of the Laws of Texas*, 3rd ed. (1873) II: 1317-1318 (Ex. T) (no carry concealed or unconcealed within a half mile of polling places on election day or registration places on days of voter registration); John Prentiss Poe, *The Maryland Code : Public Local Laws, Adopted by the General Assembly of Maryland March 14, 1888* (Vol. 2, 1888), 1457 (Ex. U) (no carry by any person in Kent County on days of an election); 1886 Md. Laws 315, An Act to Prevent the Carrying of Guns, Pistols, Dirk-knives, Razors, Billies or Bludgeons by any Person in Calvert County, on the Days of Election in said County, ch. 189 §1 (Ex. V) (no carry by any person in Calvert County within 300 yards of polls on election day); 1877 Va. Acts 305, Offenses Against

**Additional Research into Municipal Ordinances**

33. In addition to state legislatures, other jurisdictions had authority to regulate the carry of firearms and other weapons in public spaces.<sup>50</sup> For instance, the statewide 1870 sensitive places law from Texas was quite similar to a municipal ordinance from that same year in the city of San Antonio, one of the leading metropolitan and commercial centers in Texas. That ordinance prohibited the carrying of “a bowie-knife, dirk, or butcher-knife or any fire arms or arms, whether known as six-shooter, gun or pistol of any kind,” or any “brass-knuckles, slung shot, club, loaded or sword cane, or any other weapon of offence or defence” into a series of public spaces within the city. The list included: “any church, or religious assembly, any school-room, or other place where persons are assembled, for educational, literary or scientific purposes, or into any ball room, social or wedding party, or other assembly or gathering, for amusement or instruction, composed of males and females, or to any election precinct in the city, on the day or days of an election, or into any Court room or court of Justice, or to any other place where people or individuals may be assembled, to perform any public duty, or shall go into any other public assembly, or shall enter any bar-room, drinking saloon or any other place where

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The Peace, § 21 (Ex. W) (no weapons in church during services, or anywhere beyond one’s on premises on Sundays); Oscar F. Greene, *Revised Ordinances of the City of Boulder* (1899), 157 (no one save city police officers shall carry weapons into public parks) (Ex. X).

50. *See Id.*, especially examples from City of Boulder and Counties of Kent and Calvert, Maryland.

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people resort for business or amusement or shall join or accompany any public procession.”<sup>51</sup>

34. It is likely that yet more municipal governments (in Texas and throughout the country) enacted sensitive places ordinances. These local laws are much more challenging to identify in the historical record, though, because compilations of historical ordinances have often not been preserved or digitized. The best access to municipal ordinances is often local newspapers, many of which have not been digitized, are no longer extant, or are incomplete. A thorough search of newspaper databases may yield more examples of municipal sensitive places laws, and yet more may be contained in the pages of old newspapers housed in archival collections or on microfilm. Identifying additional examples of these regulations would be a time-consuming process.

**Additional Time Needed for Further Research**

35. As with any historical research project, my work in this area is still ongoing. In addition to the time-consuming process of identifying municipal sensitive places ordinances, yet more avenues are available to further research and contextualize the gun regulations enumerated in this declaration. More can be done to ascertain the immediate social and political context of sensitive places laws enacted in jurisdictions outside of Texas. There may be more analogous statutes that have

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51. “An Ordinance,” *San Antonio Express* (San Antonio, Texas), December 23, 1870 (Ex. Y).

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not yet been captured by historians working on this topic. Moreover, local law enforcement in early American cities may have treated the carrying of weapons in public spaces as a disturbance of the peace rather than an unlawful act of arms-carrying.

36. At the time of the Founding, there were relatively few large cities, and those were significantly smaller in geographic and demographic size in 1791 than they were in 1868. American towns and cities developed differently based upon the period in which they were established and the time frame in which their rapid growth occurred, and the relative number of gathering places outside of public spaces such as courthouses and open-air markets varied based upon the trajectory of that development. A deeper look at the urbanized areas of the United States at various points in time is needed to properly contextualize historical sensitive-place regulations, and to more thoroughly understand Americans' historical views about the propriety and legality of carrying weapons to gathering spaces, entertainment venues, and public assemblies.

**Conclusion**

37. Many American jurisdictions had public carry laws that generally prohibited people from carrying deadly weapons within the confines of towns and cities. Even though a sizeable number of these laws specifically prohibited *concealed* carry, the open carrying of pistols, bowie knives and other such weapons was not commonplace.

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38. American jurisdictions also enacted special ordinances and statutes designed to protect public gathering places beyond simply courthouses and polling places. Some protected schools and college campuses, others applied to entire commercial districts and city centers during electoral proceedings, and yet more provided for the disarming of *all* public gatherings. Taking regulatory action to protect people assembled for entertainment, recreation, education, and civic purposes from potential violence is not unusual or ahistorical.

39. More time is needed to provide a comprehensive overview of this subject. There are likely as-yet unidentified analogous historical laws, particularly municipal ordinances. More research needs to be done surrounding the development of American towns and cities, the relative number and size of analogous sensitive places outside of government buildings, and the historical views of Americans regarding the propriety and legality of carrying weapons in those analogous spaces at earlier points in time.

I certify that pursuant to 28 U.S.C. § 1746 and under penalty of perjury that to the best of my knowledge, information, and belief, the foregoing is true and correct.

/s/ Brennan Gardner Rivas

Brennan Gardner Rivas

July 12, 2023

**APPENDIX I — EXHIBIT 1:  
DECLARATIONS OF CLAYTON CRAMER**

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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD , ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL  
CAPACITY AS THE ATTORNEY GENERAL  
OF THE STATE OF HAWAII,

*Defendant.*

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**DECLARATION OF CLAYTON CRAMER  
IN REBUTTAL OF SAUL CORNELL**

[TABLES INTENTIONALLY OMITTED]

**COMES NOW**, Clayton Cramer, and states as follows:

1. I am a natural person, an adult, United States of America citizen. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

2. This Declaration is being submitted to rebut the declaration submitted by Saul Cornell in *Wolford Et. Al. v. Lopez* No. 1:23-cv-00265-LEK-WRP

**I. Introduction**

3. This Rebuttal Declaration to Prof. Cornell demonstrates multiple errors that demonstrate a limited knowledge of the colonial period.

**II. Qualifications**

4. My M.A. in History is from Sonoma State University in California. I teach history at the College of Western Idaho. I have nine published books, mostly scholarly histories of weapons regulation. My 18 published articles (mostly in law reviews) have been cited in *D.C. v. Heller* (2008), *McDonald v. Chicago* (2010), *Jones v. Bonta* (9th Cir. 2022), *Young v. State* (9th Cir. 2021), *State v. Sieyes* (Wash. 2010), *Senna v. Florimont* (N.H. 2008), *Mosby v. Devine* (R.I. 2004). A comprehensive list of my scholarly

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works and citations can be found at <https://claytoncramer.com/scholarly/journals.htm>.

5. In several cases, my work has been cited in defense of laws limiting firearms ownership: *State v. Roundtree* (Wisc. 2021), *State v. Christen* (Wisc. 2021), *King v. Sessions* (E.D.Penn. 2018).

6. I am being compensated for services performed in the above-entitled case at an hourly rate of \$150 for expert declarations. My compensation is not contingent on the results of my analysis or the substance of any testimony.

### III. Carrying Over English Common Law

7. At pp. 5-6, Cornell asserts “Each of the new states, either by statute or judicial decision, adopted multiple aspects of the common law, focusing primarily on those features of English law that had been in effect in the English colonies for generations.” His footnote lists “9 STATUTES AT LARGE OF PENNSYLVANIA 29-30 (Mitchell & Flanders eds. 1903); FRANCOIS XAVIER MARTIN, A COLLECTION OF STATUTES OF THE PARLIAMENT OF ENGLAND IN FORCE IN THE STATE OF NORTH-CAROLINA 60–61 (Newbern, 1792); *Commonwealth v. Leach*, 1 Mass. 59 (1804).”

8. “9 STATUTES AT LARGE OF PENNSYLVANIA 29-30” carried over English law but with the important provision:

all and every person and persons whosoever are hereby enjoined and required to yield obedience to the said laws as the case may require *until the said laws or acts of general assembly respectively, shall be repealed or altered or*

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until they expire by their own limitation and the common law and such of the statute laws of England as have heretofore been in force in the said province, except as is hereafter excepted.<sup>1</sup>  
[emphasis added]

9. Certainly, the Pennsylvania Constitution of 1790, with its guarantee of a right to keep and bear arms,<sup>2</sup> qualifies as alteration of English common law concerning arms.

10. “FRANCOIS XAVIER MARTIN, A COLLECTION OF STATUTES OF THE PARLIAMENT OF ENGLAND IN FORCE IN THE STATE OF NORTH-CAROLINA 60–61 (Newbern, 1792).” The legislature tasked Martin to sift through all existing British statutes that *might* have some applicability to North Carolina. “I began at Magna Charta. The old statutes, before that period are generally acknowledged to be rather a matter of mere curiosity, and scarcely an authentic record of any of them is extant.... I have inserted every statute unrepealed by subsequent acts, or which did not appear so glaringly repugnant to our system of government as to warrant its suppression.”<sup>3</sup> North Carolina’s 1776 Constitution guarantees “That the people have a right to bear arms, in defense of the State”<sup>4</sup> Again,

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1. 9 STATUTES AT LARGE OF PENNSYLVANIA 30 (1903).

2. Penn. Const., Art. IX, § 21 (1790).

3. Martin, A COLLECTION OF STATUTES OF THE PARLIAMENT OF ENGLAND IN FORCE IN THE STATE OF NORTH CAROLINA iii (1792).

4. North Carolina Const. Art. XVII (1776).

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this guarantee concerning the right to bear arms overrode English common law. Furthermore pp. 60-61 in Martin's collection is the Statute of Northampton disqualified for relevance by Bruen.<sup>5</sup>

11. When the North Carolina Supreme Court heard *State v. Newsom* (1844), one of the claims made by the black defendant was that the 17th article the Bill of Rights of North Carolina protected his right to carry a shotgun. The North Carolina Supreme Court in deciding in this case, did not question whether the right to keep and bear arms was individual in nature. Instead, they ruled that the defendant's color was the deciding principle, taking precedence over the text. Referring to the authors of the North Carolina Constitution: "They must have felt the absolute necessity of the existence of a power somewhere, to adopt such rules and regulations, as the safety of the community might, from time to time, require."<sup>6</sup>

12. "*Commonwealth v. Leach*, 1 Mass. 59 (1804)": The decision did nothing to make English common law applicable in Massachusetts:

Hooker, for the prosecution, conceded that justices of the peace were officers created by statute, and that their jurisdiction and powers were wholly dependent upon the statutes; 2 Hawk. P. C. c. 8, 13 , &c. ...

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5. *New York State Rifle & Pistol Assn, Inc. v. Bruen*, 142 S. Ct. 2111, 2139, 2140 (2022).

6. *State v. Newsom*, 27 N.C. (5 Ired.) 250, 255 (1844).

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In this act, the term *common law* cannot mean the common law of *England*, because justices of the peace there are not common law officers; it must, therefore, mean our common law; and on this subject, our common law must be precisely what the *statute* law of *England* was at the time of the emigration of our ancestors from that country. The statutes which were previous to that time enacted in England, and which define or describe the authorities, powers, and jurisdiction of justices of the peace, give to them, expressly, cognizance of divers offences which were offences at common law; among which are trespasses.<sup>7</sup> [emphasis in original]

13. Clearly, only *some* parts of English law were common with Massachusetts law. Where Massachusetts law had differed, English law was no longer valid.

14. A later digest of Massachusetts decisions includes “*Commonwealth v. Leach*, 1 Mass. 59 (1804)” in its list of “English Statutes Adopted Here.”<sup>8</sup> Only individual *statutes*, not necessarily all of common law applied in Massachusetts, or there would be no need to have a detailed list.

15. Cornell has attributed this carryover of English law as it was in 1776 to “[e]ach of the new states” from

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7. *Commonwealth v. Leach*, 1 Mass. 59 (1804).

8. 2 Massachusetts Digest: Being a Digest of the Decisions of the Supreme Judicial Court Of Massachusetts, From The Year 1804 to the Year 1857. 661 (1863).

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sources in three states, none of which fits his claim. Cornell does not understand his sources.

16. The U.S. Supreme Court has also emphasized how little significance English common law has compared to a constitution: “Legislation is the exercise of sovereign authority. High and important powers are necessarily vested in the Legislative body; whose acts, under some forms of government, are irresistible and subject to no controul. In England, from whence most of our legal principles and legislative notions are derived, the authority of the Parliament is transcendant and has no bounds.”<sup>9</sup>

**IV. Conserving the Peace**

17. Prof. Cornell on p. 6 quotes Blackstone’s COMMENTARIES about how the common law “hath ever had a special care and regard for the conservation of the peace; for peace is the very end and foundation of civil society.” True enough, but Blackstone’s quote is from a discussion of:

[S]ubordinate magistrates, whom I am to consider justices of the peace... Of these, some had, and still have, this power annexed to other offices which they hold; others had it merely by itself, and were thence named *custodes* or *conservatores pacis*. Those that were so *virtute officii* still continue: but the latter sort are superseded by the modern justices.<sup>10</sup>

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9. Vanhorne’s Lessee v. Dorrance, 2 U.S. (2 Dall.) 304, 308, 28 F. Cas. 1012 (C.C.D. Pa. 1795).

10. William Blackstone, 1 COMMENTARIES ON THE LAWS OF ENGLAND 143 (1775).

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18. While perhaps an accurate statement of Blackstone's view of the common law, it seems a good case can be made that it is a retrospective description, and irrelevant to English law in Blackstone's time and therefore irrelevant to American law.

19. When Blackstone listed the absolute rights that every Englishman enjoyed, peace was not on the list, but "5. THE fifth and last auxiliary right of the subject, that I shall at present mention, is that of having arms for their defence..."<sup>11</sup> Blackstone does not identify peace as one of these "Rights of Persons" in Book I, ch. 1:

The rights themselves, thus defined by these several statutes, consist in a number of private immunities; which will appear, from what has been premised, to be indeed no other, than either that residuum of natural liberty, which is not required by the laws of society to be sacrificed to public convenience; or else those civil privileges, which society hath engaged to provide, in lieu of the natural liberties so given up by individuals.<sup>12</sup>

20. If Blackstone is of great importance for determining what was important in English and therefore American law, this core right of self-defense deserves *at least* as much weight as Cornell's apparently out of context of quote from Blackstone.

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11. *Id.*, at 143.

12. *Id.*, at 121.

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## 21. At p. 13:

The most basic right of all at the time of Founding was the right of the people to regulate their own internal police. Although modern lawyers and jurists are accustomed to thinking of state police power, the Founding generation viewed this concept as a right, not a power. The first state constitutions clearly articulated such a right — including it alongside more familiar rights such as the right to bear arms. Pennsylvania’s Constitution framed this estimable right succinctly: “That the people of this State have the sole, exclusive and inherent right of governing and regulating the internal police of the same.”

22. The Pennsylvania Constitution included a guarantee of a right to keep and bear arms,<sup>13</sup> a guarantee “[N]o part of a man’s property can be justly taken from him, or applied to public uses, without his own consent, or that of his legal representatives”<sup>14</sup> and a guarantee of “a right to freedom of speech, and of writing, and publishing their sentiments.”<sup>15</sup> These seem to be pretty large exceptions to Cornell’s imagined right “to legislate for the common good.” Perhaps Cornell’s understanding of state police power is wrong or at least more limited than he imagines?

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13. Penn. Const. Art. 11 (1776).

14. Penn. Const. Art. 8 (1776).

15. Penn. Const. Art. 12 (1776).

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23. Pennsylvania Supreme Court decisions portray the state's police power somewhat more narrowly than Cornell: "*Its exercise may be limited by the frame or constitution of a particular government*, but its natural limitations, in the absence of a written constitution, are found in the situation and necessities of the state, and these must be judged of in the first instance by the government itself."<sup>16</sup> [emphasis added]

24. What the people, and ideally the legislature as well, consider what was needed "for the common good has been restrained by both state constitution bills of rights and the U.S. Bill of Rights from the very beginning. Rep. James Madison, author of the Bill of Rights, is also remembered for his MEMORIAL AND REMONSTRANCE, ON THE RELIGIOUS RIGHTS OF MAN arguing that Virginia should disestablish the Anglican Church:

Either then, we must say that the will of the Legislature is the only measure of their authority, and that, in the plenitude of this authority, they may sweep away all our fundamental rights; or, that they are bound to leave this particular right untouched and sacred: either we must say that they may control the freedom of the press, may abolish the trial by jury, may swallow up the Executive and Judiciary powers of the State; nay, that they may despoil us of our right of suffrage, and erect themselves into an independent and

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16. Commonwealth v. Vrooman, 164 Pa. 306, 316 (Penn. 1894).

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hereditary assembly: or, we must say, that they have no authority to enact into law the bill under consideration.<sup>17</sup>

25. If Cornell really believes in this right of the states to legislate on all matters related to the police power, ‘such as unlicensed public houses, nuisances, and many other things of the like nature,’” I look forward to his defense of state laws mandating racially segregated public schools and public accommodations, censorship of dirty books, prohibitions on sodomy, one man/one woman marriage laws, and bans on transgender sports. It is hard to consider a person a legal scholar or historian who does not understand that the American experiment in democracy has always been restrained by a recognition that majorities can and do make mistakes. This is the reason that every state constitution today, many of the Revolutionary state constitutions, and the U.S. Constitution has a Bill of Rights.

26. At pp. 19, Cornell quotes the Second Amendment and asserts, “Thus, from its outset, the Second Amendment recognizes both the right to keep and bear arms and the right of the people to regulate arms to promote the goals of preserving a free state.” The first clause of the Second Amendment references not well-regulated arms but a “well-regulated militia.”

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17. James Madison, A MEMORIAL AND REMONSTRANCE, ON THE RELIGIOUS RIGHTS OF MAN; WRITTEN IN 1784-5, AT THE REQUEST OF THE RELIGIOUS SOCIETY OF BAPTISTS IN VIRGINIA 41 (1828).

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27. Heller pointed out that, “The Second Amendment is naturally divided into two parts: its prefatory clause and its operative clause. The former does not limit the latter grammatically, but rather announces a purpose.”<sup>18</sup> Either Cornell is misreading the Second Amendment’s text or he is unfamiliar with the Heller decision. In either case, he has demonstrated his lack of expertise in this subject.

28. At p. 19:

In standard American English in the Founding era, to “abridge” meant to “reduce.” Thus, the First Amendment prohibits the diminishment of the rights it protects. The Second Amendment’s language employs a very different term, requiring that the right to bear arms not be “infringed.” In Founding era American English, the word “infringement” meant to “violate” or “destroy.”

29. In support of this claim, Cornell at p. 20 cites Burns’ New Law Dictionary definition of “liberty,” but it does not match any American concept of that term. If anything, it is a profoundly anti-American concept: privilege granted to a select few:

LIBERTY, is a privilege held by grant or prescription, by which men enjoy some benefit beyond the ordinary subject.<sup>19</sup>

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18. *D.C. v. Heller*, 554 U.S. 570, 577 (2008).

19. Richard Burn and John Burn, *A NEW LAW DICTIONARY* 79 (1792).

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30. Cornell makes a strong claim but it is a distinction without a difference. In what way is limiting free speech *just a bit* (e.g., prohibiting criticism of the U.S. Government) different from limiting the right to bear arms *just a bit* (e.g., prohibiting open carry). Of course *just a bit* has a non-boolean aspect to it. Would prohibiting possession of all rifles destroy the right? What about prohibiting possession of handguns? What about knives? At what point does regulation not destroy the right?

31. At p. 8, quoting a “patriotic revolutionary era orator,” “True liberty consists, not in having *no government*, not in a *destitution of all law*, but in our having an equal voice in the formation and execution of the laws, according as they effect [sic] our persons and property.” The relevance of this quote to this case seems confused. The plaintiffs are not arguing for no government or a “destitution of all law,” but a disagreement about *this* law. Cornell’s reasoning could be equally applied to laws prohibiting free speech, or opponents of warrantless searches; First Amendment or Fourth Amendment opponents of unlimited power to the government are not arguing for anarchy.

32. At p. 12, Cornell quotes Jud Campbell that “Rather, retained natural rights were aspects of natural liberty that could be restricted only with just cause and only with consent of the body politic.” What Cornell and perhaps Campbell seem to have missed is that the Bill of Rights limits democracy because a majority can, and often does, abuse its power. The recent consequences of panic after 9/11 should be a reminder that even well-intentioned polity’s can blow it.

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33. Cornell continues: “In fact, without robust regulation of arms, it would have been impossible to implement the Second Amendment and its state analogues. Mustering the militia required keeping track of who had weapons and included the authority to inspect those weapons and fine individuals who failed to store them safely and keep them in good working order.” Cornell’s source for this claim? “H. RICHARD UVILLER & WILLIAM G. MERKEL, *THE MILITIA AND THE RIGHT TO ARMS, OR, HOW THE SECOND AMENDMENT FELL SILENT 150* (2002).” P. 150 makes no such claim. It is a discussion of the meaning of the Second Amendment that directly contradicts Cornell’s claims. Review of militia censuses cited in UVILLER & MERKEL,<sup>20</sup> shows that militia censuses show the number of militiamen by state, broken down by rank.<sup>21</sup> There is no record of who was a member or what arms each person possessed. Cornell is just making this stuff up. Mustering the militia required no such recordkeeping. Colonial and state militia laws did not keep track of who was armed. They imposed a duty to be armed and to show up with those arms on muster day or face fines.<sup>22</sup> I am unaware of

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20. H. Richard Uviller & William G. Merkel, *THE MILITIA AND THE RIGHT TO ARMS, OR, HOW THE SECOND AMENDMENT FELL SILENT 150* (2002)

21. 1 American State Papers. Class V. Military Affairs. 159-62 (1832).

22. A few examples: 1 *THE PUBLIC RECORDS OF THE COLONY OF CONNECTICUT, 1636-1776* 15 (1850) (“It, it is ordered that all persons shall beare Armes that are above the age of sixteene yeeres except they doe tender a sufficient excuse [to] the Corte & the Cort allowe the same.”); Charles J. Hoadly, ed., *RECORDS OF THE COLONY AND*

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any safe storage laws of this period, and Cornell cites only a secondary source for a rather important claim. I have a pretty complete collection of colonial and Revolutionary militia laws<sup>23</sup> and there are no such provisions that I can find.

34. At p. 13: “The individual states also imposed loyalty oaths, disarming those who refused to take such oaths. No state imposed a similar oath as prerequisite to the exercise of First Amendment-type liberties.”

35. In 1777, Pennsylvania responded to concerns that Loyalists might be a fifth column by passing a law that provided that those of militia age refusing to swear an oath of loyalty to the Revolutionary governments were prohibited from “holding any office or place of trust in this state, serving on juries, suing for any debts, electing or being elected, buying, selling or transferring any lands, tenements or hereditaments, and shall be disarmed by the lieutenant or sublieutenant of the city or counties respectively.”

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PLANTATION OF NEW HAVEN, FROM 1638 TO 1649 25-26 (1857) (“It is ordered that every one that beares armes shall be compleatly furnished with armes (viz), a muskett, a sworde, bandaleers, a rest, a pound of powder, 20 bullets fitted to their muskett, or 4 pound of pistoll shott or swan shott att least, and be ready to show them in the markt place upon Munday the 16th of this Month before Captaine Turner and Leiutennant Seely under the penalty 20 s fine for every default or absen[ce].”)

23. Clayton E. Cramer, *Militia Statutes*, <https://claytoncramer.com/primary/primary.html#MilitiaLaws>, last accessed July 15, 2023/

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## 36. Massachusetts' similar Test Act:

That every male person above sixteen years of age, resident in any town or place in this colony, who shall neglect or refuse to subscribe a printed or written declaration, of the form and tenor hereinafter prescribed, upon being required thereto by the committee of correspondence, inspection and safety, shall be disarmed, and have taken from him, in manner hereafter directed, all such arms, ammunition and warlike implements, as, by the strictest search, can be found in his possession or belonging to him...<sup>24</sup>

37. Like its cousins in other states, refusing the oath disqualified one for any public office, work as a minister, voting, or teaching.<sup>25</sup> Cornell could easily use these wartime emergency acts as justification today for restrictions on transferring property, voting, teaching, or preaching the gospel.

38. Abuses of civil liberties were widespread during the chaos of the Revolution. Thomas Jefferson drafted a bill of attainder passed by the Virginia Legislature in 1778.<sup>26</sup>

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24. 5 Acts and Resolves, Public and Private, of the Province of the Massachusetts Bay 479 (1886), ch. 21.

25. *Ibid.*, 481.

26. William M. Burwell, Address Delivered Before the Society of Alumni of the University of Virginia 446-47 (1847).

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In Cornell's model, the U.S. Constitution's prohibition on Bills of Attainder<sup>27</sup> can be safely ignored.

39. On p. 17:

The first notable expansion of regulation occurred during the period after the War of 1812, when cheap, reliable, and easily concealable pistols were produced for the first time in American history. More than 90% of the firearms in circulation in the Founding era were long guns, so pistols were not a serious problem for the Founders.

40. How common were pistols before the Revolution? The evidence from archaeological digs, probate inventories, advertising, and from surviving pistols demonstrates that Americans made handguns before the Revolution; that there was a civilian market for them in at least some cities; and that pistol ownership was unremarkable. An analysis of all Plymouth Colony probate inventories found that of 339 listed firearms, forty-four, or thirteen percent, were pistols, and 54.5 percent of lead projectiles recovered from Plymouth Colony digs were pistol bullets.<sup>28</sup>

41. On August 22, 1775, the New-York Provincial Congress ordered the militia to arm themselves;

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27. U.S. Const., Art. I, § 9, cl. 3.

28. Plymouth Archaeological Rediscovery Project, "Firearms in Plymouth Colony" (2002), Tables 1 and 4, available at <https://www.plymoutharch.com/wp-content/uploads/2014/11/62869457-Firearms-in-Plymouth.pdf>, last accessed March 1, 2023.

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Calvarymen were obligated to provide themselves with “a case of pistols, and a carabine.” Every man 16 to 50 was to “furnish himself” with either a long gun or “a case of pistols.”<sup>29</sup> (How many pistols were in one case? At least one.)

42. While Americans made pistols early in the eighteenth century, most colonists preferred to buy pistols imported from Britain, perhaps because of price or prestige. Only a few pre-Revolutionary War American-made pistols have survived.<sup>30</sup> Surviving pistols made for William Smith of Farmington, Connecticut by Medad Hills in 1771 were equipped with American-made barrels, and apparently English locks.<sup>31</sup>

43. Advertising and news reports show that merchants offered pistols for sale in Colonial America. Such ads appear in the *Boston Gazette* as early as 1720. Sampling

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29. Peter Force, ed., 3 American Archives, 4th ser., 665-6 (1840).

30. Harold L. Peterson, ARMS AND ARMOR IN COLONIAL AMERICA: 1526-1783 213- 14, 202, 205, 209 (1956); M.L. Brown, FIREARMS IN COLONIAL AMERICA: THE IMPACT ON HISTORY AND TECHNOLOGY 1492-1792 312 (1980); Frank Klay, THE SAMUEL E. DYKE COLLECTION OF KENTUCKY PISTOLS 4-15 (1972); Felicia Johnson Deyrup, ARMS MAKERS OF THE CONNECTICUT VALLEY: A REGIONAL STUDY OF THE ECONOMIC DEVELOPMENT OF THE SMALL ARMS INDUSTRY, 1798-1870 34 (1948).

31. George A. Stickels, *The William Smith Pistols Made by Medad Hills*, THE GUN REPORT 10-12 (September, 1979).

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ads from the 1741-1742 period reveals at least two different merchants offering pistols for sale.<sup>32</sup>

44. A gang of robbers, having terrorized New York City, moved on to Philadelphia in 1749. A newspaper account of their crimes reported that, “two Men, unknown, were lately at Mr. Rush’s, a Gun smith, enquiring for six Pair of Pocket Pistols, to make up twelve Pair, having as they said, got the six Pair at some other Place.”<sup>33</sup> In 1772 and 1773, Heinrich Diebenberger advertised in Pennsylvania newspapers that he sold pistols,<sup>34</sup> as did Henry Deabarear, who sold “pistols for holsters and the pocket....” Philadelphia merchants advertised pistols for sale repeatedly from 1744 onward.<sup>35</sup> A 1745 ad in the PENNSYLVANIA GAZETTE, offered “ship muskets, *pistols* ,

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32. BOSTON GAZETTE issues with one or more ads offering pistols: May 30, 1720, November 17, 1741, December 8, 1741, February 2, 1742, May 11, 1742, May 18, 1742, May 25, 1742, July 13, 1742, August 10, 1742, August 24, 1742, August 31, 1742, [September 13?], 1742.

33. PENNSYLVANIA GAZETTE, August 31, 1749.

34. September 4, 1772 and September 14, 1773, WOCHTENLICHTER PENNSYLVANISCHE STAATSBOTE, translated and quoted in James Whisker, THE GUNSMITH’S TRADE 159-160 (Lewiston, N.Y.: Edwin Mellen Press, 1992).

35. *Pennsylvania Gazette*, November 1, 1744; September 26, 1745; October 3, 1745; October 17, 1745; February 11, 1746; July 17, 1746; July 30, 1747; May 12, 1748; September 15, 1748; October 25, 1750; November 27, 1755; August 2, 1759; February 11, 1762; April 14, 1763; May 19, 1763; April 12, 1764; April 19, 1764; August 16, 1770; May 28, 1772; February 17, 1773; September 15, 1773.

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cutlashes and poleaxes, gunpowder, lead, shot and bullets, English and French gun flints.”<sup>36</sup> [emphasis added]

45. Pistols appear in journals and newspaper articles throughout the colonial period—and while the crimes committed with them are sometimes shocking, the *presence* of pistols is never remarkable. Governor John Winthrop made several references to pistols in New England in the nineteen years that his journal covers. One was a 1641 theological dispute at Pascataquack (now Dover, New Hampshire) that led the factions to arm themselves and march; at least one member Winthrop identified as armed with a pistol. There were murders with pistols at Stamford, Connecticut and at Penobscott in 1644, and an attempted murder with a pistol at Cape Sable in 1646.<sup>37</sup> Pistols appear in other places in Winthrop’s *Journal*.<sup>38</sup> Winthrop never expressed any surprise over the presence of pistols.

46. An accident in New York City in 1745: “a young Gentleman having been on board the Clinton Privateer, then going out, had a Pair of *Pistols* given him; which on his coming on Shore he carried into a Publick House, among some of his Acquaintance, where one of them was found to be loaded; upon which several Attempts were made to discharge it; but it missing Fire, he sat down in

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36. *Just imported by Hamilton, Wallace and Company, in the Ship*, PENNSYLVANIA GAZETTE, Sep. 26, 1745, Oct. 3, 1745.

37. John Winthrop, 2 *WINTHROP’S JOURNAL: “HISTORY OF NEW ENGLAND”*, 27, 153, 180, 275 (1908).

38. *Id.*, at 95, 151,

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order to amend the Flint; in doing of which, the *Pistol* unhappily went off, and shot Mr. Thomas Cox, Butcher, through the Head...”<sup>39</sup> [emphasis in original]

47. Many eighteenth century accounts also mention pistols. Eliza Lucas Pinckney described the suicide of Anne LeBrasseur with a pistol as “melancholy and shocking,” but newspaper accounts suggest that what was shocking was not the weapon, but that she was “a Disciple of Mr. Whitefield’s” (the noted evangelist).<sup>40</sup> In 1749, the PENNSYLVANIA GAZETTE reported that, “Sunday night last, about eight a Clock, Richard Green, coming to Town from Kensington, was stopt on the Road, and his Money demanded, by two Men with Pistols...”<sup>41</sup> There are other examples available in the PENNSYLVANIA GAZETTE of the criminal misuse of and accidental deaths from pistols; they are never described as surprising.<sup>42</sup> Pistols appear among the South Carolina Regulators and the criminals to whom they administered frontier justice.<sup>43</sup> Nor was there

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39. *NEW YORK, October 28. Monday Evening last a very melancholy*, PENNSYLVANIA GAZETTE, OCT. 31, 1745.

40. Eliza Lucas Pinckney, Elise Pinckney, ed., *THE LETTERBOOK OF ELIZA LUCAS PINCKNEY* 42, 42 n. 55 (1997).

41. *By the last Post from New York...*, PENNSYLVANIA GAZETTE, Aug. 31, 1749.

42. *Monday Evening last a very melancholy...*, PENNSYLVANIA GAZETTE, Oct. 31, 1745; *Last Friday one Hunt, a lime seller in this...*, PENNSYLVANIA GAZETTE, Apr. 20, 1749.

43. Richard Maxwell Brown, *THE SOUTH CAROLINA REGULATORS* 35, 40, 54 (1963).

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any surprise when pistols appear in the hands of the law-abiding, such as a description of Rev. Whitfield preaching in Massachusetts, “he was attended by many Friends with Muskets and Pistols on Account of the Indians...”<sup>44</sup>

48. Pistols appear in news reports: This came from New York in 1775, describing events before March 23 (so before the Revolutionary War started):

The sheriff came to the courthouse, and demanded entrance, which was refused him; and whilst struggling to enter the door, he received a blow upon his head, which leveled him with the ground: Having recovered a little, he arose and discharged a *pistol* among the opposers, and commanded the Court party to fire also; when, as Mr. Langdon supposes, about five of them fired. Mr. French, one of the opposers, was killed by a ball's being lodged in his head, and two more of the same party were also wounded. The sheriff and the Court party then entered the courthouse. The populace without discharged a gun and two *pistols*<sup>45</sup> [emphasis added]

49. Other news accounts report pistols being used.<sup>46</sup>

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44. *Last Monday Capt. Tyng in the Massachusetts...*, PENNSYLVANIA GAZETTE, Aug. 15, 1745.

45. *MR. Mark Langdon, from Westminster, in the...*, VIRGINIA GAZETTE, Apr. 22, 1775.

46. *BY THE LAST POST FROM NEW YORK...*, PENNSYLVANIA GAZETTE, Aug. 31, 1749.

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50. A London gun-maker complained in the SOUTH CAROLINA GAZETTE that “a Person in the Country in putting my Name and *London* on some parcels of Guns and Pistols” apparently not proofed (as English law required) thus creating a risk to his reputation.<sup>47</sup> A 1766 ad in the SUPPLEMENT TO THE SOUTH CAROLINA GAZETTE; AND COUNTRY JOURNAL offered “brass barrel pistols.”<sup>48</sup>

51. Enough pistols were present in private hands in Pennsylvania in 1774 for the legislature to include handguns in a law regulating New Year’s Day festivities. This statute made it illegal for “any person or persons shall, on any thirty-first day of December, or first or second day of January, in every year, wantonly, and without reasonable occasion, discharge and fire off any *handgun, pistol*, or other firearms, or shall cast, throw or fire any squibs, rockets or other fireworks, within the inhabited parts of this province....”<sup>49</sup> [emphasis added]

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47. *To the Publick*, SOUTH CAROLINA GAZETTE, DEC. 26, 1743.

48. GUERIN & WILLIAMSON, Have just imported in the London, Supplement to the South Carolina Gazette; and Country Journal, Jun. 24, 1766, Jul. 1, 1766, Jul. 8, 1766

49. *An ACT to suppress the disorderly practice of FIRING GUNS, &c.*, PENNSYLVANIA GAZETTE, Dec. 28, 1774.

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PAUL REVERE'S VERY COMPACT POCKET PISTOL<sup>50</sup>

52. My search through newspapers from the 1730s through 1760s at Accessible Archives for “pistol” showed 2,962 matches.<sup>51</sup> Some of these are militia use references, some are references to a coin of that time, and some to a type of cloth called pistol. A few are references to foreign news events; some news accounts appear in multiple newspapers. Still, it is pretty apparent that Cornell’s claim about the scarcity of pistols is utterly wrong and shows a limited knowledge of the period for which he has “expert” opinions.

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50. Photograph by Clayton E. Cramer at the Massachusetts Historical Society.

51. Accessible Archives is a proprietary data base. I searched for “pistol” in all newspapers for the 1730s through 1760s.

*Appendix I***B. Black Powder**

53. At pp. 16-17:

The nature of firearms technology and early American society militated against guns as the preferred tool for most forms of interpersonal violence.

Weapons in the Founding era were muzzle loaded guns that were not particularly accurate and took a long time to load. . The black powder used in these firearms was corrosive and attracted moisture like a sponge: two facts that militated against storing weapons loaded. Given the state of firearms technology in the Founding era, it is not surprising that recent scholarship has demonstrated that there was not a widespread gun violence problem in the era of the Second Amendment.

54. This is a perfectly logical statement, but the documents left by colonial Americans show that they did not follow it very consistently. Colonial Americans kept black powder firearms loaded with tragic results. Massachusetts Governor Winthrop's journal reports several accidental deaths or injuries caused by colonists failing to follow this very logical action:

At a training at Watertown, a man of John Oldham's, having a musket, which had been long charged with pistol bullets, not knowing of

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it, gave fire, and shot three men, two into their bodies, and one into his hands; but it was so far off, as the shot entered the skin and stayed there, and they all recovered.<sup>52</sup>

55. And:

Three men coming in a shallop from Braintree, the wind taking them short at Castle Island, one of them stepping forward to hand the sail, caused a fowling piece with a French lock, which lay in the boat, to go off. The whole charge went through the thigh of one man within one inch of his belly, yet missed the bone, then the shot (being goose shot) scattered a little and struck the second man under his right side upon his breast, so as above 40 shot entered his body, many into the capacity of his breast.<sup>53</sup>

56. These incidents of firearms kept loaded when not in active use resulting in serious misadventure are in *one* book. How many of these loaded firearms sat quietly in their place, never accidentally discharging? How many incidents are in books that I have not read? Perhaps if Cornell was well-read in colonial documents, he would know enough about colonial practices to be an expert. The relevance of this claim to the proposed law is unclear.

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52. John Winthrop, James Kendall Hosmer, ed., 1 *Winthrop's Journal: "History of New England" 1630-1649* (1908), 83.

53. Id. 2:55.

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57. Finally, there is one more piece of evidence that Americans kept firearms loaded when not ready for use. In 1783, Massachusetts passed a statute that shows firearms were kept loaded regularly enough to justify a law regulating the practice.

58. The preamble “WHEREAS the depositing of loaded arms in the houses of the town of Boston, is dangerous to the lives of those who are disposed to exert themselves when a fire happens to break out in the said town” establishes that it was a fire safety measure.

Sect. 2. And be it further enacted by the authority aforesaid, That all canon, swivels, mortars, howitzers, cohorns, fire-arms, grenades, and iron shells of any kind, that shall be found in any dwelling-house, out-house, stable, barn, store, ware-house, shop, or other building, charged with, or having any dwelling in them any gunpowder, shall be liable to be seized by either of the Firewards of the said town...

59. You were free to keep small arms, cannon, small artillery, bombs, and grenades at home, as long as they were unloaded. Why was there a need for such a law unless firearms (and artillery) were at least occasionally left loaded? Would we pass a law today ordering that you not leave children unsupervised at a pool if no one did this?

*Appendix I***Accuracy**

60. Cornell's claim on p. 16: "Weapons in the Founding era were muzzle loaded guns that were not particularly accurate..." is false. A letter that James Madison wrote on June 19, 1775 to William Bradford in Philadelphia:

The strength of this Colony will lie chiefly in the rifle-men of the Upland Counties, of whom we shall have great numbers. You would be astonished at the perfection this art is brought to. *The most inexpert hands rec[k]on it an indifferent shot to miss the bigness of a man's face at the distance of 100 Yards. I am far from being among the best & should not often miss it on a fair trial at that distance.* If we come into an engagement, I make no doubt but the officers of the enemy will fall at the distance before they get [within] 150 or 200 Yards. Indeed I believe we have men that would very often hit such a mark 250 Yds. Our greatest apprehensions proceed from the scarcity of powder but a little will go a great way with such as use rifles.<sup>54</sup>  
[emphasis added]

61. Frederick County, Maryland raised two companies of riflemen to join the army forming outside of Boston. An eyewitness account of Captain Michael Cresap's rifle company of "upwards of 130 men" described a demonstration:

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54. James Madison, William T. Hutchinson and William M.E. Rachal, ed., 1 *The Papers of James Madison* 153 (1962).

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to show the gentlemen of the town their dexterity at shooting. A clapboard, with a mark the size of a dollar, was put up; they began to fire off-hand, and the bystanders were surprised, so few shots being made that were not close to or in the paper.

When they had shot for a time in this way, some lay on their backs, some of their breast or side, others ran twenty or thirty steps, and, firing, appeared to be equally certain of the mark. With this performance the company was more than satisfied, when a young man took up the board in his hand, not by the end, but by the side, and holding it up, his brother walked to the distance, and very coolly shot into the white; laying down his rifle, he took up the board, and, holding it as was held before, the second brother shot as the former had done.

By this exercise I was more astonished than pleased. But will you believe me, when I tell you, that one of the men took the board, and placing it between his legs, stood with his back to the tree, while another drove the center?<sup>55</sup>

62. Other accounts of Cresap's company also report on their marksmanship:

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55. John Thomas Scharf, 1 HISTORY OF WESTERN MARYLAND 130 (1882).

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[W]e mention a fact which can be fully attested by several of the reputable persons who were eye-witnesses of it. Two brothers in the company took a piece of board five inches broad and seven inches long, with a bit of white paper, about the size of a dollar, nailed in the centre; and while one of them supported this board perpendicularly between his knees, the other, at the distance of upwards of sixty yards, and without any kind of rest, shot eight bullets through it successively, and spared a brother's thigh!

Another of the company held a barrel stave perpendicularly in his hands with one edge close to his side, while one of his comrades, at the same distance, and in the manner before mentioned, shot several bullets through it, without any apprehension of danger on either side.

The spectators appearing to be amazed at these feats, were told that there were upwards of fifty persons in the same company who could do the same thing; that there was not one who could not plug nineteen bullets out of twenty, as they termed it, within an inch of the head of a tenpenny nail. In short, to prove the confidence they possessed in their dexterity at these kind of arms, some of them proposed to stand with apples on their heads, while others at the same distance, undertook to shoot them off; but the

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people who saw the other experiments declined to be witnesses of this.<sup>56</sup>

63. Cornell should spend a bit more time reading what colonial Americans wrote and less of what people write with whom he already agrees.

**V. Firearms Regulation in Antebellum America**

64. Starting at page 23, Cornell seems to have stopped citing any sources, except himself, presumably because has only his own arm-waving as a source.

Secondly, the constitutional “mischief to be remedied” that arms bearing provisions addressed had changed as well. Constitution writers in the era of the American Revolution feared powerful standing armies and sought to entrench civilian control of the military. By contrast, constitution writers in the era of the Fourteenth Amendment were no longer haunted by the specter of tyrannical Stuart Kings using their standing army to oppress American colonists. In place of these ancient fears, a new apprehension stalked Americans: the proliferation of unusually dangerous weapons and the societal harms they caused. The Reconstruction-era constitutional solution

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56. “From The Virginia Gazette (1775)” in Albert Bushnell Hart and Mabel Hill, *CAMPS AND FIRESIDES OF THE REVOLUTION* 230 (1918).

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cast aside the eighteenth-century language that was steeped in fears of standing armies and substituted in its place new language affirming the state's police power authority to regulate arms, particularly in public.

65. The specter changed from tyrannical Stuart kings to Klansmen and tyrannical Southern state governments, but Cornell pretends that the weapons laws enacted as part of the Black Codes had no influence on the Fourteenth Amendment.

66. Cornell might have benefitted from reading the primary sources concerning Reconstruction and the incorporation of the right to keep and bear arms through the Fourteenth Amendment, as historians try to do, instead of relying on his own arm-waving. Of course, Cornell would also benefit from reading the many decisions that decided the "scope of state power to regulate arms," often explicitly recognizing a right to open carry based on their state constitutions, and in some cases the Second Amendment, not the rarely mentioned "police power."<sup>57</sup>

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57. Just a *few* examples: *Bliss v. Commonwealth*, 2 Littell 90, 13 Am. Dec. 251 (Ky. 1822) (struck down a ban on carrying concealed weapons based on state constitution); . *Simpson v. State*, 5 Yerg. 356 (Tenn. 1833) (struck down a conviction for "with force and arms,... being arrayed in a warlike manner, then and there in a certain public street and highway situate, unlawfully, and to the great terror and disturbance of divers good citizens of the said state, then and there being, an affray did make," because "the freemen of this state have a right to keep and to bear arms for their common defence." Tenn. Const. Article 11, sec. 26); *Aymette*

*Appendix I***VI. Post-1868 Evidence**

67. Cornell insists at p. 41: “As long as state and local laws were racially neutral and favored no person over any other, the people themselves, acting through their representatives, were free to enact reasonable measures necessary to promote public safety and further the common good.” Had Cornell read *McDonald v. Chicago* (2010) he would know that it was precisely the racial discrimination of the Black Codes that caused the 14<sup>th</sup>

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v. State, 2 Hump. (21 Tenn.) 154, 155, 156, 158 (1840) (upheld a ban on concealed carry of a Bowie knife because the Tennessee Constitution only protected weapons of war: “The free white men may keep arms to protect the public liberty, to keep in awe those who are in power, and to maintain the supremacy of the laws and the constitution.”); *State v. Reid*, 1 Ala. 612 (1840) (“ A statute which, under the pretence of regulating, amounts to a destruction of the right, or which requires arms to be so borne as to render them wholly useless for the purpose of defence, would be clearly unconstitutional.”); *Owen v. State*, 31 Ala. 387 (1858) (upheld a ban on concealed carry, but “That section was not designed to destroy the right, guaranteed by the constitution to every citizen, “to bear arms in defense of himself and the State”; nor to require them to be so borne, as to render them useless for the purpose of defense.”); 3 Iredell 418, 423 (N.C. 1843) (Upholding a conviction of a bully running around armed and threatening people: “For any lawful purpose--either of business or amusement--the citizen is at perfect liberty to carry his gun. It is the wicked purpose, and the mischievous result, which essentially constitute the crime. He shall not carry about this or any other weapon of death to terrify and alarm, and in such manner as naturally will terrify and alarm a peaceful people.”)

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Amendment to limit state authority in this area.<sup>58</sup> This was the basis by which McDonald incorporated the Second Amendment against the states.<sup>59</sup>

68. As contrary evidence, in Table One Cornell cites post-Fourteenth Amendment state constitution arms provisions and either does not know, or neglects to mention that the 1889 Idaho guarantee: “IDAHO CONST. OF 1889, art. I, § 11: The people have the right to bear arms for their security and defense: but the legislature shall regulate the exercise of this right by law,” was construed narrowly in the decision *In re Brickey* (Ida. 1902). The Idaho Supreme Court decided the territorial-era prohibition on carrying a loaded weapon in the town of Lewiston, was contrary to both the 1889 Constitution and the Second Amendment. “Under these constitutional provisions, the legislature has no power to prohibit a citizen from bearing arms in any portion of the state of Idaho, whether within or without the corporate limits of cities, towns, and villages. The legislature may, as expressly provided in our state constitution, regulate the exercise of this right, but may not prohibit it.”<sup>60</sup>

69. Cornell proceeds to deny Bruen’s incorporation of the Second Amendment through the Fourteenth Amendment where at p. 39: “The new focus on regulation

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58. *McDonald v. City of Chicago*, 561 U.S. 742, 779 (2010)

59. *Id.* at 790.

60. *In re Brickey*, 8 Idaho 597, 70 P. 609, 610, 101 Am. St. Rep. 215, 1 Ann. Cas. 55 (1902).

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embodied in these revised state arms bearing provisions was not a departure from traditional views of the robust scope of police power authority to regulate arms in the interests of public safety. This power was ancient and widely acknowledged as fundamental to Anglo-American law. Nor did the adoption of the Fourteenth Amendment change this fact.” So constitutions adopted after the Fourteenth Amendment take precedence over an amendment that the Court has recognized as a limit on state power?

70. Cornell at pp. 40-41 quotes General Sickles’ General Order No. 1 as evidence that the right to keep and bear arms could be limited on private property: “nor to authorize any person to enter with arms on the premises of another against his consent.” Certainly, any property owner is authorized to post a “No arms allowed” notice. A requirement that a property owner must provide an affirmative statement of permission is far different.

71. On p. 43: “Colonial Massachusetts prohibited coming to muster with a loaded firearm.” This would be odd because target practice was common at musters. Consulting Cornell’s source: “RECORDS OF THE GOVERNOR AND COMPANY OF THE MASSACHUSETTS BAY IN NEW ENGLAND 98 (1853)” shows no such order. His citation to “1866 Mass. Acts 197, An Act Concerning the Militia, § 120” does seem to be such a law:

SECTION 120. A soldier who unnecessarily or without order from a superior officer comes to any parade with his musket, rifle or pistol

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loaded with ball, slug or shot, or so loads the same while on parade, or unnecessarily or without order from a superior officer discharges the same when going to, returning from or upon parade, shall forfeit not less than five nor more than twenty dollars.<sup>61</sup>

72. This statute refers not to a muster but a parade. Assuming that the 19<sup>th</sup> century definition of parade is similar to today, this seems like a safety measure.

73. His claim in n. 89: “The prohibition on bringing a loaded gun to muster stretches from 1632 to 1866 making it one of the longest standing regulations on firearms in the early Republic.” Citing a single act in 1866 which does not clearly refer to a muster does not support this claim.

74. At pp. 45-46 Cornell lists city parks that prohibited “public carry.” Curiously, the only such ordinance in his Table 2 before 1868 is New York City’s 1861 measure. He provides no citation for such an ordinance. All the smaller cities that Cornell lists in n. 93 have ordinance dates after 1868. In any case, Bruen takes precedence.

## VII. Summary

75. Cornell misrepresents the broadness of the carryover of English law to the American colonies.

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61. 1866 Mass. Acts 197, An Act Concerning the Militia, § 120.

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76. He misrepresents Blackstone about the importance of conserving the peace; argues for a unlimited democracy that the Bill of Rights exists to prevent;

77. Cornell argues for an unlimited power of the states to regulate everything with no power of the Bill of Rights to counter such abuses of majority power.

78. Cornell attempts to use post-1868 laws contrary to Bruen's clear instructions.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 19, 2023.

/s/ \_\_\_\_\_  
Clayton Cramer

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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD , ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL  
CAPACITY AS THE ATTORNEY GENERAL  
OF THE STATE OF HAWAII,

*Defendants.*

July 19, 2023

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**DECLARATION OF CLAYTON CRAMER  
IN REBUTTAL OF BRENNAN RIVAS**

[TABLES INTENTIONALLY OMITTED]

**COMES NOW**, Clayton Cramer, and states as follows:

1. I am a natural person, an adult, United States of America citizen. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

2. This Declaration is being submitted to rebut the declaration submitted by Dr. Rivas in *Wolford Et. Al. v. Lopez* No. 1:23-cv-00265-LEK-WRP

**I. Introduction**

3. This Expert Declaration and Report analyzes Dr. Rivas' expert report concerning the "historical gun regulations that pertained to public carry laws, [and] sensitive places." Rivas also puts a lot of work into examining Texas law on this subject without demonstrating that Texas was in many respects then as even now, an outlier to American tradition.

**II. Qualifications**

4. My M.A. in History is from Sonoma State University in California. I teach history at the College of Western Idaho. I have nine published books, mostly scholarly histories of weapons regulation. My 18 published articles

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(mostly in law reviews) have been cited in *D.C. v. Heller* (2008), *McDonald v. Chicago* (2010), *Jones v. Bonta* (9th Cir. 2022), *Young v. State* (9th Cir. 2021), *State v. Sieyes* (Wash. 2010), *Senna v. Florimont* (N.H. 2008), *Mosby v. Devine* (R.I. 2004). A comprehensive list of my scholarly works and citations can be found at <https://claytoncramer.com/scholarly/journals.htm>.

5. In several cases, my work has been cited in defense of laws limiting firearms ownership: *State v. Roundtree* (Wisc. 2021), *State v. Christen* (Wisc. 2021), *King v. Sessions* (E.D.Penn. 2018).

6. I am being compensated for services performed in the above-entitled case at an hourly rate of \$150 for expert declarations. My compensation is not contingent on the results of my analysis or the substance of any testimony.

**III. The History of Public Carry Laws in America**

7. Rivas starts out by overruling the Supreme Court, rejecting Bruen's findings on public carry laws. At ¶10:

Americans of the late eighteenth and nineteenth centuries had laws that broadly prohibited the carrying of firearms and other deadly weapons in public. Early versions of these regulations, particularly those enacted in the eighteenth century by colonial and early American legislatures, tended to draw heavily from legal language with deep roots in the English common law tradition, reaching at least as far back as the Statute of Northampton from 1328.

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8. Bruen is very clear that the Statute of Northampton and all the colonial and early Republic laws supposedly derived from it are irrelevant to interpretation of the Second Amendment:

At the very least, we cannot conclude from this historical record that, by the time of the founding, English law would have justified restricting the right to publicly bear arms suited for self-defense only to those who demonstrate some special need for selfprotection.<sup>1</sup>

9. Having started on the wrong foot, Rivas trips over herself demonstrating that she is not a scholar. At ¶11 her footnote 4 attempts to demonstrate that states adopted laws prohibiting carrying of arms. “1786 Va. Laws 33, ch. 21, An Act forbidding and punishing Affrays (Ex. D).” This is 1786 ch. 21:

## CHAP. 21

An act for giving further time to officers, soldiers, sailors, and marines, to settle their arrears of pay and depreciation, with the auditor of public accounts.<sup>2</sup>

10. It appears that Rivas meant 1786 Va. Ch. 49, at 334, which is the Statute of Northampton (1328). (It really helps to check primary sources, at least if you are an

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1. New York State Rifle & Pistol Assn, Inc. v. Bruen, 142 S. Ct. 2111, 2142 (2022).

2. Va. Laws ch. 21 at 278 (1786).

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“expert.”) Again, progeny of the Statute of Northampton rejected by Bruen.

## 11. Still in n. 4:

1835 Mass. Acts 750 (“If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury, or violence to his person, or to his family or property, he may on complaint of any person having reasonable cause to fear an injury, or breach of the peace, be required to find sureties for keeping the peace.”)

## 12. This a surety bond law, also rejected by Bruen:

*Surety Statutes.* In the mid-19th century, many jurisdictions began adopting surety statutes that required certain individuals to post bond before carrying weapons in public. Although respondents seize on these laws to justify the proper-cause restriction, their reliance on them is misplaced. These laws were not *bans* on public carry, and they typically targeted only those threatening to do harm.<sup>3</sup>

13. “Francois Xavier Martin, A Collection of Statutes of the Parliament of England in Force in the State of North Carolina, 60-61 (Newbern 1792)” As the title makes clear, this was not a statute passed by the North Carolina

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3. New York State Rifle & Pistol Assn, Inc. v. Bruen, 142 S. Ct. 2111, 2148 (2022)

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Legislature. The North Carolina Legislature tasked Martin to sift through all *existing* British statutes that might have some applicability to North Carolina. “I began at Magna Charta. The old statutes, before that period are generally acknowledged to be rather a matter of mere curiosity, and scarcely an authentic record of any of them is extant.... I have inserted every statute unrepealed by subsequent acts, or which did not appear so glaringly repugnant to our system of government as to warrant its suppression.”<sup>4</sup>

14. Curiously, when the North Carolina Supreme Court decided *State v. Huntly* (N.C. 1843), a case which charged the defendant under the Statute of Northampton, the opinion held that “whether this statute was or was not formerly in force in this State, it certainly has not been since the first of January, 1838, at which day it is declared in the Revised Statutes, (ch. 1st, sect. 2,) that the statutes of England or Great Britain shall cease to be of force and effect here.”<sup>5</sup> One might expect that if this statute had been adopted legislatively, as Rivas claims, that it might have merited mention.

15. “1821 Me. Laws 285, ch. 76, § 1” Rivas at least quotes enough of the text to demonstrate that this is more progeny of Statute of Northampton. The section that she did *not* quote in full is:

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4. Xavier Martin, A COLLECTION OF STATUTES OF THE PARLIAMENT OF ENGLAND IN FORCE IN THE STATE OF NORTH CAROLINA, iii (1792).

5. *State v. Huntly*, 418, 420 (N.C. 1843).

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to cause to be staid and arrested, all affrayers, rioters, disturbers or breakers of the peace, and such as shall ride or go armed offensively, *to the fear or terror* of the good citizens of this State, or *such others as may utter any menaces or threatening speeches*;<sup>6</sup> [emphasis added]

16. Nor does she quote from the section which says what persons so jailed must do to regain their freedom:

shall require of the offender to find sureties to appear and answer for his offence, at the Supreme Judicial Court, or Circuit Court of Common Pleas, next to be held within or for the same county, at the discretion of the Justice, and as the nature or circumstances of the case may require<sup>7</sup>

17. At ¶11, again Bruen specifically rejects the relevance of surety laws:

*Surety Statutes.* In the mid-19th century, many jurisdictions began adopting surety statutes that required certain individuals to post bond before carrying weapons in public. Although respondents seize on these laws to justify the proper-cause restriction, their reliance on them is misplaced. These laws were not *bans* on

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6. 1821 Maine Laws ch. 76 at 353.

7. *Id.*

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public carry, and they typically targeted only those threatening to do harm.<sup>8</sup>

18. At ¶13: “The language of concealed carry laws might at first suggest that open carry of firearms was accepted and commonplace, but that was not the case. Individuals generally did not view concealed carry laws as giving permission to openly carry in populated places during a person’s ordinary activities.” Her source for this claim is *State v. Huntley*, 25 N.C. 418 (1843).

19. *State v. Huntley* (N.C. 1843) involved prosecution of a bully:

His Honor instructed the jury, that if the facts charged in the indictment were proven to their satisfaction, the defendant had been guilty of a violation of the law, and that they ought to render their verdict accordingly. In the investigation before the jury it appeared, among other things, that *the defendant was seen by several witnesses, and on divers occasions, riding upon the public highway, and upon the premises of James H. Ratcliff (the person named in the indictment), armed with a double-barrelled gun, and on some of those occasions was heard to declare, “that if James H. Ratcliff did not surrender his negroes, he would kill him”; at others, “if James H. Ratcliff did not give him his rights, he would kill him”; on some, that “he had waylaid the house of*

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8. *New York State Rifle & Pistol Assn, Inc. v. Bruen*, 142 S. Ct. 2111, 2148 (2022).

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James H. Ratcliff in the night about daybreak, and if he had shown himself he would have killed him; that he showed himself once, but for too short a time to enable him to do so, and that *he mistook another man for him, and was very near shooting him.*”<sup>9</sup> [emphasis added]

20. Huntley was not simply armed, but also making death threats; he came close to shooting someone he mistook for the object of his wrath. To call this “to the terror of the people” seems quite clear. Yet the North Carolina Supreme Court while upholding the conviction made it clear that riding around armed violated no laws:

[I]t is to be remembered that the carrying of a gun per se constitutes no offence. *For any lawful purpose either of business or amusement the citizen is at perfect liberty to carry his gun.* It is the wicked purpose—and the mischievous result—which essentially constitute the crime. He shall not carry about this or any other weapon of death to terrify and alarm, and in such manner as naturally will terrify and alarm, a peaceful people.<sup>10</sup> [emphasis added]

21. She also cites *State v. Smith*, 11 La. Ann. 633 (1856). Her quotation is misleading. The Louisiana Supreme Court decided that: “A partial concealment of

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9. *State v. Huntley*, 25 N.C. (3 Ired.) 418, 419, 40 Am. Dec. 416 (1843).

10. *Id.*

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the weapon, which does not leave it in full open view, is a violation of the statute.” Rivas’ quotation concerns what the decision called “to the extremely unusual case of the carrying of such weapon in full open view, and partially covered by the pocket or clothes.” If you were openly carrying a weapon and it was partially covered, this was the “unusual case”; not open carry which was not prohibited or concealed carry which the law prohibited.

22. Rivas also has either cherry-picked her sources, or she knows little of the case law on this. Multiple antebellum decisions recognized a right to carry arms, protected by either the state constitution’s arms provision or more rarely, the Second Amendment.<sup>11</sup>

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11. *State v. Chandler*, 5 La. An. 489, 490, 491 (1850) (upholding a concealed carry ban, but: “It interfered with no man’s right to carry arms (to use its own words), “in full open view,” which places men upon an equality. This is the right guaranteed by the Constitution of the United States, and which is calculated to incite men to a manly and noble defence of themselves”); *Smith v. State*, 11 La. An. 633, 634 (1856) (“The statute against carrying concealed weapons does not contravene the second article of the amendments of the Constitution of the United States. The arms there spoken of are such as are borne by a people in war, or at least carried openly.”); *Dred Scott v. Sandford*, 60 U.S. 393, 417 (1857) (“It would give to persons of the negro race, who were recognized as citizens in any one State of the Union,... and to keep and carry arms wherever they went.”); *Cockrum v. State*, 24 Tex. 394, 401, 402, 403 (1859) (Responding to defendant’s claim that a sentence enhancement for use of a Bowie knife in manslaughter violated his rights under the Second Amendment: “The object of the first clause cited, has reference to the perpetuation of free government, and is based on the idea, that the people cannot be effectually oppressed and enslaved, who are not first disarmed. The clause cited in our Bill of Rights, has the same broad object in relation to the government, and in addition thereto, secures a personal right

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23. At ¶28, Rivas uses *English v. State* (Tex. 1872) to justify a very narrow definition of sensitive places. First of all, the statute and decision both postdate the ratification of the 14<sup>th</sup> Amendment, which one of the dates Bruen has indicated have significance to determining the meaning of the Second Amendment as incorporated against the states.

The Second Amendment was adopted in 1791; the Fourteenth in 1868. Historical evidence that long predates or postdates either time may not illuminate the scope of the right. With these principles in mind, the Court concludes that respondents have failed to meet their burden to

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to the citizen. The right of a citizen to bear arms, in the lawful defence of himself or the State, is absolute.... A law cannot be passed to infringe upon or impair it, because it is above the law, and independent of the law-making power.”); *Bliss v. Commonwealth*, 2 Littell 90, 13 Am. Dec. 251, 252, 253 (1822) (Striking down a ban on concealed carry of arms: “That the provisions of the act in question do not import an entire destruction of the right of the citizens to bear arms in defense of themselves and the state, will not be controverted by the court; for though the citizens are forbid wearing weapons, concealed in the manner described in the act, they may, nevertheless, bear arms in any other admissible form. But to be in conflict with the constitution, *it is not essential that the act should contain a prohibition against bearing arms in every possible form; it is the right to bear arms in defense of the citizens and the state, that is secured by the constitution, and whatever restrains the full and complete exercise of that right, though not an entire destruction of it, is forbidden by the explicit language of the constitution.*” [emphasis added])

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identify an American tradition justifying New York's proper-cause requirement.<sup>12</sup>

24. English was decided based on the Texas Constitution's right to keep and bear arms provision; Bruen's use of the Second Amendment trumps English for that reason.

25. Rivas puts great emphasis on how the 1871 Texas law was intended to protect the freedmen. It is therefore interesting to see how English ends:

The law under consideration has been attacked upon the ground that it was contrary to public policy, and deprived the people of the necessary means of self-defense; that it was an innovation upon the customs and habits of the people, to which they would not peaceably submit. We do not think the people of Texas are so bad as this, and we do think that the latter half of the nineteenth century is not too soon for Christian and civilized states to legislate against any and every species of crime. Every system of public laws should be, in itself, the purest and best system of public morality. We will not say to what extent the early customs and habits of the people of this state should be respected and accommodated, where they may come in conflict with the ideas of intelligent and well-meaning legislators. A portion of our system of laws, as well as our public morality, is derived

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12. *New York State Rifle & Pistol Assn, Inc. v. Bruen*, 142 S. Ct. 2111, 2119 (2022).

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from a people the most peculiar perhaps of any other in the history and derivation of its own system. Spain, at different periods of the world, was dominated over by the Carthagenians, the Romans, the Vandals, the Snevi, the Allani, the Visigoths, and Arabs; and to this day there are found in the Spanish codes traces of the laws and customs of each of those nations blended together into a system by no means to be compared with the sound philosophy and pure morality of the common law.<sup>13</sup>

26. The arms provision of the Texas Constitution of 1836 is clearly of American, not Spanish origin:

Fourteenth. Every citizen shall have the right to bear arms in defence of himself and the republic. The military shall at all times and in all cases be subordinate to the civil power. Fifteenth. The sure and certain defence of a free people is a well regulated militia; and it shall be the duty of the legislature to enact such laws as may be necessary to the organizing of the militia of this republic.<sup>14</sup>

27. At ¶28: “The court held that whatever conduct offends against public morals or public decency comes within the range of legislative authority.” This train left the station with *Lawrence v. Texas* (2004) and *Roe v. Wade* (1973), both appropriately enough originating in Texas. Is

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13. *English v. State*, 35 Tex. 473, 479, 480, 14 Am. Rep. 374 (1872).

14. 1 Laws of the Republic of Texas 24 (1838).

*Appendix I*

there anything that can withstand the Bill of Rights that “offends against public morals or public decency”?

28. At ¶29: “In the late 1870s and throughout the 1880s, Texas appellate judges consistently applied the sensitive places law without questioning its constitutionality.” Did they ever question the constitutionality of segregated schools? This is not a very persuasive argument, except to the last remaining segregationist.

29. At ¶32, Rivas argues that Bruen’s treatment of Texas law as an outlier was wrong because a number of other states passed similar laws after 1868. This simply demonstrates that Rivas wants to overrule Bruen.

30. In addition to the errors in Rivas ¶15 and beyond discussion of firearms prohibition in Texas, this time period postdates the 1868 ratification of the 14<sup>th</sup> Amendment and the Second Amendment as incorporated against the states, making this discussion irrelevant.

**IV. Summary**

31. Rivas claims that public carry of firearms was generally prohibited in towns and even if open carry was legal, it was not commonplace. The first statement is false. The second is probably unknowable. The most commonplace actions of life are seldom recorded.

32. Rivas asserts that protection of “public gathering places” was the norm or at least not outliers, yet her evidence is all post-1868 and largely in the Reconstruction South.

*Appendix I*

33. At ¶39: “More time is needed to provide a comprehensive overview of this subject. There are likely as-yet unidentified analogous historical laws, particularly municipal ordinances. More research needs to be done surrounding the development of American towns and cities, the relative number and size of analogous sensitive places outside of government buildings, and the historical views of Americans regarding the propriety and legality of carrying weapons in those analogous spaces at earlier points in time.” Get back to us when you have evidence. So far, what Rivas has is a desire to overturn Bruen largely with claims already rejected by Bruen.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 19, 2023.

/s/  
Clayton Cramer

373a

**APPENDIX J — EXHIBIT 2: MAP OF  
MAUI COUNTY AND SUPPLEMENTAL  
DECLARATION OF ATOM KASPRZYCKI,  
DATED JULY 21, 2023**

Kevin Gerard O’Grady  
Law Office of Kevin O’Grady, LLC  
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Honolulu, Hawaii 96813  
(808) 521-3367  
Hawaii Bar No. 8817  
Kevin@KevinOGradyLaw.Com

Alan Alexander Beck  
Law Office of Alan Beck  
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San Diego, CA 92123  
(619) 905-9105  
Hawaii Bar No. 9145  
Alan.alexander.beck@gmail.com

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD , ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL  
CAPACITY AS THE ATTORNEY GENERAL  
OF THE STATE OF HAWAII,

*Defendant.*

July 21, 2023

*Appendix J*

**SUPPLEMENTAL DECLARATION  
OF ATOM KASPRZYCKI**

COMES NOW, Atom Kasprzycki, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii and County Maui. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;
2. I am a licensed architect by trade.
3. The attached maps were created by myself and my staff while working under my supervision.
4. The maps were created using publicly available information obtained from the County of Maui Real Property Assessment Division website, Hawaii Department of Transportation website, Maui County Shoreline Access website, Google maps, and other open source information. See the following links: <https://qpublic.schneidercorp.com/Application.aspx?AppID=1029&LayerID=21689&PageTypeID=1&PageID=9248&Q=816427170&Key=Value=340080530000> , <https://hidot.hawaii.gov/highways/>, <https://www.mauishorelineaccess.net>
5. I certify that the maps are accurate to the best of my knowledge.

**FURTHER, DECLARANT SAYETH NAUGHT.**

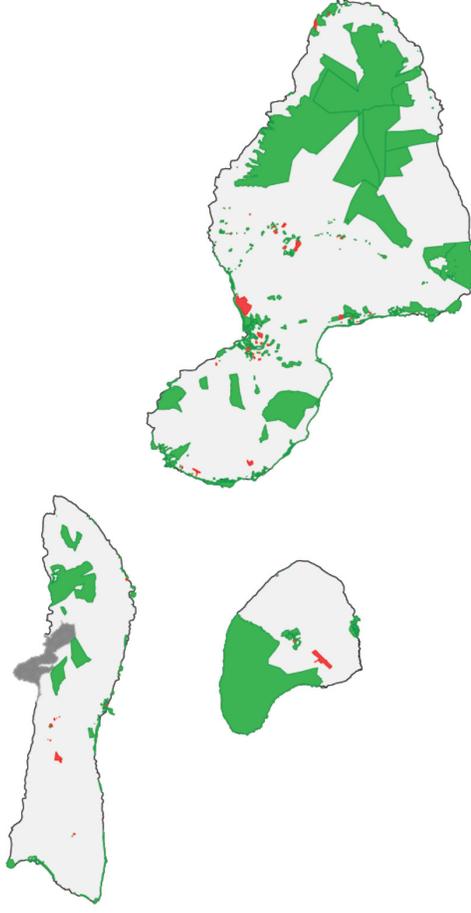
I certify under penalty of perjury that the foregoing is true and correct. Executed on July 21, 2023.

/s/  
Atom Kasprzycki

Appendix J

Case 1:23-cv-00265-LEK-WRP\_Document 61-2 Filed 07/21/23 Page 5 of 12 PageID.1270

Maui County Accessible Areas Map Key	
	Federal, State, County and Private Property Not Open to the Public or Not Accessible by the Public
	Federal, State, County and Private Property Open to the Public, Concealed Carry Weapon (CCW) Allowed
	Federal, State, County and Private Property Open to the Public, Concealed Carry Weapon (CCW) Not Allowed
	Kaliwaoo County, Mokolai - Excluded



1 Maui County Pre SB-1230

Maui County Accessible Areas Map - Pre SB1230

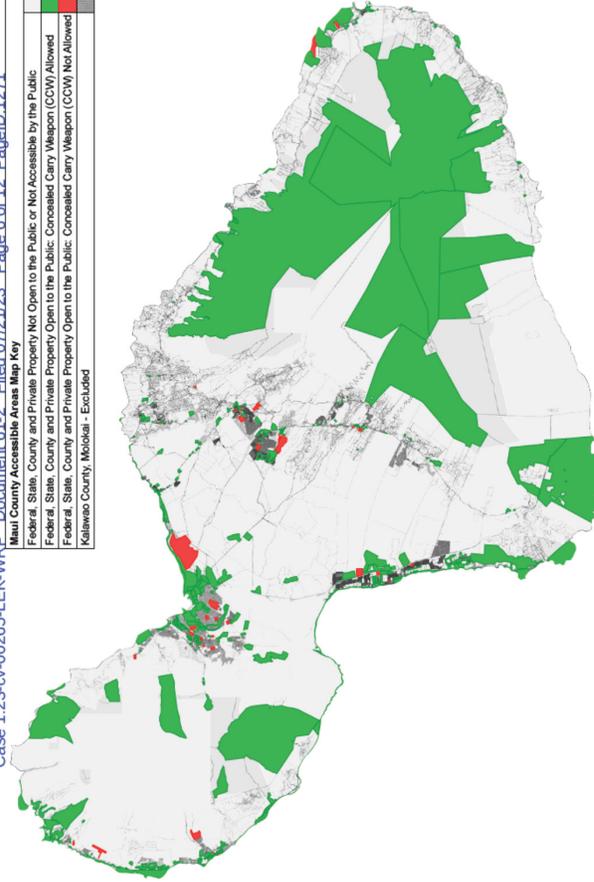
Note: The information contained in this map is approximated and has been obtained from the County of Maui Real Property Assessment Division website and other open source information. See the following link: <https://gopublic.schnedercorp.com/Application.aspx?AppID=10258&LayerID=2186588&PageTypeID=18&PageID=52468&cr=81642770&keyValue=3440080530000>

Sheet Number: 01

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Case 1:23-cv-00265-LEK-WRP Document 61-2 Filed 07/21/23 Page 6 of 12 PageID.1271

Maui County Accessible Areas Map Key	
	Federal, State, County and Private Property Not Open to the Public or Not Accessible by the Public
	Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Allowed
	Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Not Allowed
	Kulaheo County, Molokai - Excluded



Public Area Summary Pre SB-1230	
Maui County:	1,137 Square Miles
Federal, State, County and Private Property Not Open to the Public or Not Accessible by the Public:	814 Square Miles
Remaining Property (11.4 Square Miles +/- of public sidewalks and roadways included):	322 Square Miles
Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Allowed:	316.3 Square Miles (98.5 % of Remaining Property)
Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Not Allowed:	4.7 Square Miles ( 1.5 % of Remaining Property)

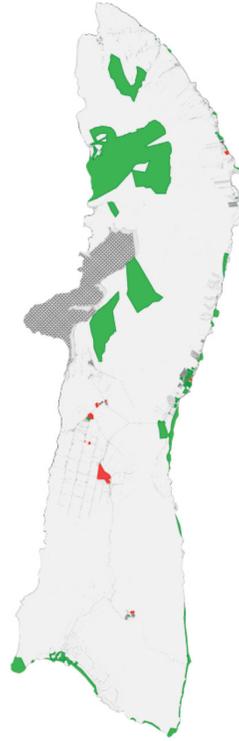
**Maui Island Accessible Areas Map - Pre SB1230**

Note: The information contained in this map is approximated and has been obtained from the County of Maui Real Property Assessment Division website and other open source information. See the following link: <https://public.schneidercorp.com/Application.aspx?AppID=10238&LayerID=216838&PageTypeID=18> PageID=22483&Q=816427170&KeyVal=54080653000

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Case 1:23-cv-00265-LEK-WRP\_Document 61-2 Filed 07/21/23 Page 7 of 12 PageID.1272

Mau County Accessible Areas Map Key	
Federal, State, County and Private Property Not Open to the Public or Not Accessible by the Public	
Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Allowed	
Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Not Allowed	
Kulaawo County, Molokai - Excluded	



Public Area Summary Pre SB-1230	
Mau County:	1,137 Square Miles
Federal, State, County and Private Property Not Open to the Public or Not Accessible by the Public:	814 Square Miles
Remaining Property (11.4 Square Miles +/- of public sidewalks and roadways included):	323 Square Miles
Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Allowed:	318.3 Square Miles (98.5% of Remaining Property)
Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Not Allowed:	4.7 Square Miles (1.5% of Remaining Property)

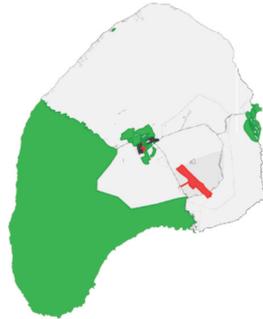
**Molokai Island Accessible Areas Map - Pre SB1230**

Note: The information contained in this map is approximated and has been obtained from the County of Maui Real Property Assessment Division website and other open source information. See the following link: <https://public.schneidercorp.com/Application.aspx?AppID=10298&PageTypeID=13&PageID=52483&Q=816427170&KeyValues=34006053000>

Sheet Number:  
**03**

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Maui County Accessible Areas Map Key	
	Federal, State, County and Private Property Not Open to the Public or Not Accessible by the Public
	Federal, State, County and Private Property Open to the Public; Concealed Carry Weapon (CCW) Allowed
	Federal, State, County and Private Property Open to the Public; Concealed Carry Weapon (CCW) Not Allowed
	Kulaeoa County; Moikeai - Excluded



Public Area Summary Pre SB-1230	
Maui County, County and Private Property Not Open to the Public or Not Accessible by the Public	1,137 Square Miles
Federal, State, County and Private Property Open to the Public	614 Square Miles
Remaining Property (11.4 Square Miles +/- of public sidewalks and roadways included):	322 Square Miles
Federal, State, County and Private Property Open to the Public; Concealed Carry Weapon (CCW) Allowed	319.3 Square Miles (98.5% of Remaining Property)
Federal, State, County and Private Property Open to the Public; Concealed Carry Weapon (CCW) Not Allowed	4.7 Square Miles ( 1.5% of Remaining Property)

Special Note for Lanai: Private property hunting and recreation areas excluded.

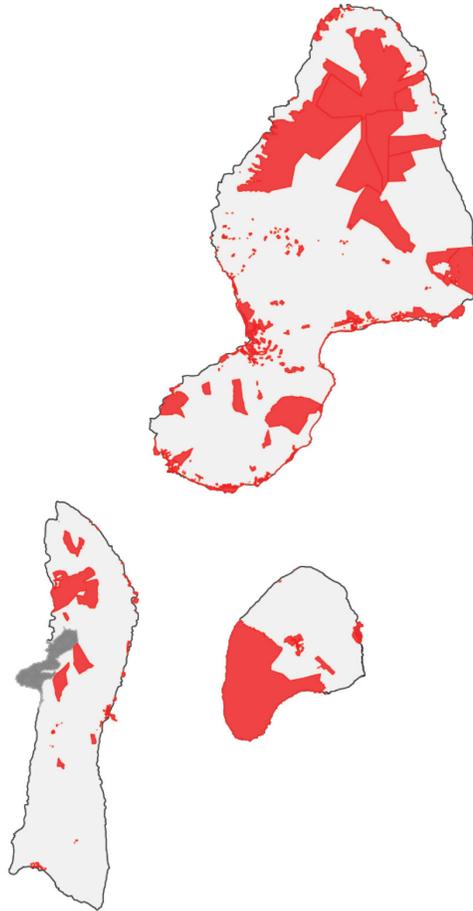
**Lanai Island Accessible Areas Map - Pre SB1230**

Note: The information contained in this map is approximate and has been obtained from the County of Maui Real Property Assessment Division website and other open source information. See the following link: <https://opublic.scholarcorp.com/Application.aspx?AppID=102381&LayerID=216888&PageID=18&PageID=52488&e=818427170&KeyVal=340380530000>

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Maui County Accessible Areas Map Key	
	Federal, State, County and Private Property Not Open to the Public or Not Accessible by the Public
	Federal, State, County and Private Property Open to the Public, Concealed Carry Weapon (CCW) Allowed
	Federal, State, County and Private Property Open to the Public, Concealed Carry Weapon (CCW) Not Allowed
	Kilauea County, Molokai - Excluded



1 Maui County Post SB-1230

Maui County Accessible Areas Map - Post SB1230

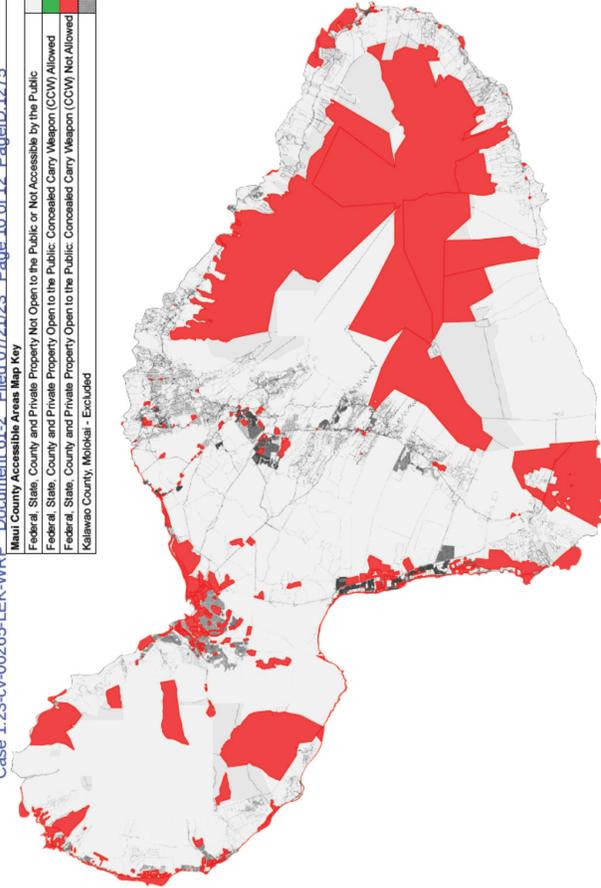
Sheet Number: 05

Note: The information contained in this map is approximated and has been obtained from the County of Maui Real Property Assessment Division website and other open source information. See the following link: <https://publius.schedincorp.com/Application.aspx?AppID=10238&LayerID=2118638&PageTypeID=181&PageID=92488&Q=818427170&KeyVal=540806530000>

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Case 1:23-cv-00265-LEK-WRP Document 61-2 Filed 07/21/23 Page 10 of 12 PageID.1275

Maui County Accessible Areas Map Key	
	Federal, State, County and Private Property Not Open to the Public or Not Accessible by the Public
	Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Allowed
	Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Not Allowed
	Kalaheo County, Mokai - Excluded



Public Area Summary Post SB-1230	
Maui County	1,137 Square Miles
Federal, State, County and Private Property Not Open to the Public or Not Accessible by the Public:	814 Square Miles
Remaining Property (11.4 Square Miles +/- of public sidewalks and roadways included):	323 Square Miles
Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Allowed:	11.4 Square Miles ( 3.6 % of Remaining Property)
Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Not Allowed:	311.6 Square Miles (96.4 % of Remaining Property)

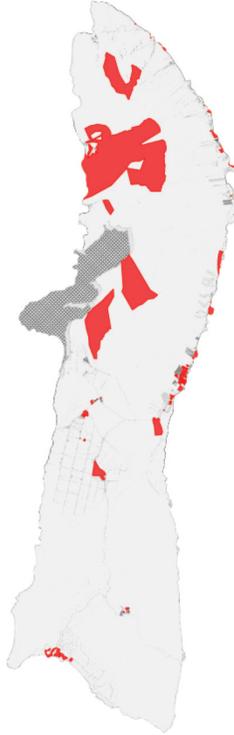
Maui Island Accessible Areas Map - Post SB1230

Note: The information contained in this map is approximated and has been obtained from the County of Maui Real Property Assessment Division website and other open source information. See the following link: <https://public.schmiedecorp.com/Application.aspx?AppID=1028&LayerID=2108&PageTypeID=18> PageID=5248,CS=162770&keyvalue=9406653000

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Case 1:23-cv-00265-LEK-WRP Document 61-2 Filed 07/21/23 Page 11 of 12 PageID.1276

Maui County Accessible Areas Map Key	
	Federal, State, County and Private Property Not Open to the Public or Not Accessible by the Public
	Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Allowed
	Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Not Allowed
	Kilauea County, Molokai - Excluded



Public Area Summary Post SB-1230	
Maui County:	1,137 Square Miles
Federal, State, County and Private Property Not Open to the Public or Not Accessible by the Public:	814 Square Miles
Remaining Property (11.4 Square Miles +/- of public sidewalks and roadways included):	323 Square Miles
Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Allowed:	11.4 Square Miles ( 3.6 % of Remaining Property)
Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Not Allowed:	311.6 Square Miles (96.4 % of Remaining Property)

**Molokai Island Accessible Areas Map - Post SB1230**

Note: The information contained in this map is approximated and has been obtained from the County of Maui Real Property Assessment Division website and other open source information. See the following link: <https://public.schneidercorp.com/Application.aspx?AppID=10238,LayerID=21893&PageTypeID=1&PageID=9248&O=816427170&Key=Value=34008030000>

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Maui County Accessible Areas Map Key	
Federal, State, County and Private Property Not Open to the Public or Not Accessible by the Public	
Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Allowed	
Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Not Allowed	
Kaunaloa County, Molokai - Excluded	



Public Area Summary Post SB-1230	
Maui County:	1,137 Square Miles
Federal, State, County and Private Property Not Open to the Public or Not Accessible by the Public:	814 Square Miles
Remaining Property (11.4 Square Miles +/- of public sidewalks and roadways included):	323 Square Miles
Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Allowed:	11.4 Square Miles ( 3.6 % of Remaining Property)
Federal, State, County and Private Property Open to the Public: Concealed Carry Weapon (CCW) Not Allowed:	311.6 Square Miles (98.4 % of Remaining Property)
Special Note for Lanai: Private property hunting and recreation areas excluded	

Lanai Island Accessible Areas Map - Post SB1230

Note: This information contained in this map is approximated and has been obtained from the County of Maui Real Property Assessment Division website and other open source information. See the following link: <https://public.schedarcpp.com/application.aspx?AppID=1029&LayerID=21899&PageTypeID=1&PageID=9248&O=819427170&Key=Value-340090530000>

Sheet Number:  
08

**APPENDIX K — EXHIBIT 3 —  
DECLARATION OF MAUI BUSINESSES**

Kevin Gerard O’Grady  
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Alan Alexander Beck  
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(619) 905-9105  
Hawaii Bar No. 9145  
Alan.alexander.beck@gmail.com

Attorneys for Plaintiffs

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

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*Appendix K*

**DECLARATION OF JODY BOERINGA**

**COMES NOW**, Jody Boeringa, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;
2. I am the owner of Kula Glass Company. It is a commercial glass business located at 289 Pakana St., Wailuku, HI 96793.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 18, 2023.

Signature

/s/ \_\_\_\_\_

385a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF MARTIN V. COOPER**

**COMES NOW**, Martin V. Cooper, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

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*Appendix K*

2. I am the owner of CWA Ventures LLC. It is a Architectural Design business located at 246 Papa Pl., Wailuku, HI.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 19, 2023.

Signature

/s/ \_\_\_\_\_

387a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF CHRISTOPHER EGAN**

**COMES NOW**, Christopher Egan, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

*Appendix K*

2. I am the owner of Fine Art Visions LLC. It is a Retail Sales business located at 815 Front Street, Lahaina, HI 96761.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 17, 2023.

Signature

/s/ \_\_\_\_\_

389a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF RUDOLF S. KING**

**COMES NOW**, Rudolf S. King, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

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*Appendix K*

2. I am the owner of King Screen Printing. It is a screen printing business located at 120 Ulupono Street in Lahaina.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 17, 2023.

Signature

/s/ \_\_\_\_\_

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*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF COLE LOEWEN**

**COMES NOW**, Cole Loewen, and states as follows:

1. I am a natural person, an adult male, a sovereign born American of the United States of America, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

*Appendix K*

2. I am the owner of Hawaii Fabrication LLC. It is a welding/fabrication business located at 1000 Limahana Pl. Ste. i, Lahaina Hawaii 96761.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 18, 2023.

Signature

/s/ \_\_\_\_\_

393a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF DOUGLAS G. PITZER**

COMES NOW, Douglas G. Pitzer, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

*Appendix K*

2. I am the owner of Pitzer Built Construction, LL. It is a General Contractor Construction business located at 142 Kupuohi St. F-4 Lahaina, Hi 96761.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July \_\_, 2023.

Signature

/s/ \_\_\_\_\_

395a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF SPICE RAY PRINCE**

**COMES NOW**, Spice Ray Prince, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

396a

*Appendix K*

2. I am the owner of Island Spice Hawaii Hale Parfum. It is a clothing/herbal/fragrance business located at 277 Wili Ko Pl. #8, Lahaina, HI 96761.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 18, 2023.

Signature

/s/ \_\_\_\_\_

397a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF KIMO CLARK**

**COMES NOW**, Kimo Clark, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

398a

*Appendix K*

2. I am the owner of Truth Excavation LLC. It is a Excavation business located at 164 Wahikuli Rd, Lahaina HI 96761.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 18, 2023.

Signature

/s/ \_\_\_\_\_

399a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF JEFF DRECHSEL**

**COMES NOW**, Jeff Drechsel, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

400a

*Appendix K*

2. I am the owner of Zuma Development. It is a Construction business located at 11 Ulupono Street Lahaina, HI 96761.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 18, 2023.

Signature

/s/ \_\_\_\_\_

401a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF MATTHEW WILBERT**

**COMES NOW**, Matthew Wilbert, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

402a

*Appendix K*

2. I am the owner of Akamai Fire Protection LLC. It is a Construction business located at Home Office: 215 Molehulehu St. Kahului, HI 96732. Shop: Central Maui Baseyard 2000 Maui Veterans HWY.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 19, 2023.

Signature

/s/\_\_\_\_\_

403a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF GLENN ROSS**

**COMES NOW**, Glenn Ross, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

404a

*Appendix K*

2. I am the owner of Island Lock and Safe. It is a Retail and Locksmith business located at 1036 Limahana Place, #2I, Lahaina, HI 96761.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 19, 2023.

Signature

/s/ \_\_\_\_\_

405a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF DUANE J. GOMES**

**COMES NOW**, Duane J. Gomes, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

406a

*Appendix K*

2. I am the owner of J2C Hawaii, dba Obachans. It is a locally owned candy business located at 1870-A Mill St, Wailuku, HI 96793.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 20, 2023.

Signature

/s/ \_\_\_\_\_

407a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF DAVIN ASATO**

**COMES NOW**, Davin Asato, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

408a

*Appendix K*

2. I am a Pastor at Grace Bible Church Maui. It is a church located at 635 Hina Avenue 96732. It is open to the public.
3. Our church has not put a sign up at church allowing the public to carry firearms in the church or on our property.
4. If H.R.S. §134-E, the law which requires us to put up a sign or give consent for members of the public to be able to carry firearms at our church, were repealed or enjoined or otherwise no longer in effect, our church would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in the church and on church property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 18, 2023.

Signature

/s/\_\_\_\_\_

409a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF GREGORY L. HOWETH**

**COMES NOW**, Gregory L. Howeth, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

410a

*Appendix K*

2. I am the owner of Lahaina Dive and Surf LLC. It is a recreational SCUBA company that operates a retail store, training facility, and charter boats. It is located in Lahaina, Hawaii, which is in Maui County and it is open to the public. It is located at 143 Dickenson St., Suite 100, Lahaina HI, 96761.
3. I own the property that my business is located on.
4. I have not put a sign up in my business or property that says the public may carry firearms in my business. And I have otherwise not given consent to the public to carry firearms on my property and/or business.
4. If H.R.S. § 134-E i.e., the law which currently requires me to put up a sign or otherwise give consent for the public to carry handguns in my business. were repealed, enjoined or otherwise no longer in effect, I would allow members of the public, including the Plaintiffs in this case, to carry handguns in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 16, 2023.

Signature

/s/ \_\_\_\_\_

411a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF JAMES PATCH**

**COMES NOW**, James Patch, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

412a

*Appendix K*

2. I am the owner of The Fish Market Maui. It is a 23 Year Retail business located at 3600 Lower Honoapiilani Rd, #2, Lahaina, HI 96761.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 17, 2023.

Signature

/s/ \_\_\_\_\_

413a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF TYLER COONS**

**COMES NOW**, Tyler Coons, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

414a

*Appendix K*

2. I am the owner of Welcome Hawaii Properties. It is a real estate business located at 40 Kupuohi St. Ste 103A Lahaina, HI 96761.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 17, 2023.

Signature

/s/ \_\_\_\_\_

415a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF YOUR NAME**

**COMES NOW**, Your name, and states as follows:

1. I am a natural person, an adult male/female, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

416a

*Appendix K*

2. I am the owner of Hi-Tech Surf Sports. It is a Retail business located at 425 Koloa St, Kahului.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 20, 2023.

Signature

/s/\_\_\_\_\_

417a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF YOUR NAME**

**COMES NOW**, your name, and states as follows:

1. I am a natural person, an adult male/female, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

*Appendix K*

2. I am the owner of Hi-Tech Surf Sports. It is a Retail business located at 58 Baldwin Ave, Paia.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July \_\_, 2023.

Signature

/s/\_\_\_\_\_

419a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF YOUR NAME**

**COMES NOW**, your name, and states as follows:

1. I am a natural person, an adult male/female, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

420a

*Appendix K*

2. I am the owner of Hi-Tech Surf Sports. It is a Retail business located at 2021 S. Kihei Rd., Kihei.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July \_\_, 2023.

Signature

/s/\_\_\_\_\_

421a

*Appendix K*

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

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD, ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL CAPACITY  
AS THE ATTORNEY GENERAL OF  
THE STATE OF HAWAII,

*Defendant.*

**DECLARATION OF NOAH DRAZKOWSKI**

**COMES NOW**, Noah Drazkowski, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

422a

*Appendix K*

2. I am the owner of All About Fish Maui. It is a Retail business located at 3600 Lower Honoapiilani Road, Ste. F, Lahaina, HI 96761.
3. I have not put a sign up in my business allowing the public to carry firearms on my property.
4. If H.R.S. §134-E were repealed or enjoined or otherwise no longer in effect, I would allow members of the public who have concealed carry permits, including the Plaintiffs in this case, to carry in my business and on my property.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 17, 2023.

Signature

/s/ \_\_\_\_\_

**APPENDIX L — EXHIBIT 4:  
DECLARATION OF MAUI RESTAURANTS**

Kevin Gerard O’Grady  
Law Office of Kevin O’Grady, LLC  
1164 Bishop Street, Suite 1605  
Honolulu, Hawaii 96813  
(808) S21-3367  
Hawaii Bar No. 8817  
Kevin@kevinOGradyLaw.Com

Alan Alexander Beck  
Law Office of Alan Beck  
2692 Harcourt Drive  
San Diego, CA 92123  
(619) 90S-9105  
Hawaii Bar No. 9145  
Alan.alexander.beck@gmail.com

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD , ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL  
CAPACITY AS THE ATTORNEY GENERAL  
OF THE STATE OF HAWAII,

*Defendant.*

July 19, 2023

424a

*Appendix L*

**DECLARATION OF DAVID FINCHER**

COMES NOW, 7/19/23, and states as follows:

1. I am a natural person, an adult, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;
2. I am the owner of DOWN THE HATCH. It is a restaurant that serves alcohol. It is located at 658 Front St, Lahaina HI.
3. If H.R.S. § 134-A(a)(4) i.e., Hawaii's restriction on carrying firearms by concealed carry permit holders in restaurants that serve alcohol and their parking lots were repealed or enjoined or otherwise no longer in effect, I would allow members of the public, including the Plaintiffs in this case, to carry in my business, on my property and parking lot.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 19, 2023.

/s/ \_\_\_\_\_  
WDF

425a

*Appendix L*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD , ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL  
CAPACITY AS THE ATTORNEY GENERAL  
OF THE STATE OF HAWAII,

*Defendant.*

July 19, 2023

**DECLARATION OF DAVID FINCHER**

COMES NOW, 7/19/23, and states as follows:

1. I am a natural person, an adult, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

426a

*Appendix L*

2. I am the owner of MALA OCEAN TAVERN. It is a restaurant that serves alcohol. It is located at 1307 Front St, Lahaina HI.
  
3. If H.R.S. § 134-A(a)(4) i.e., Hawaii's restriction on carrying firearms by concealed carry permit holders in restaurants that serve alcohol and their parking lots were repealed or enjoined or otherwise no longer in effect, I would allow members of the public, including the Plaintiffs in this case, to carry in my business, on my property and parking lot.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 19, 2023 19, 2023.

/s/ \_\_\_\_\_  
WDF

427a

*Appendix L*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD , ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL  
CAPACITY AS THE ATTORNEY GENERAL  
OF THE STATE OF HAWAII,

*Defendant.*

July 19, 2023

**DECLARATION OF** \_\_\_\_\_

COMES NOW, Alexa Caskey, and states as follows:

1. I am a natural person, an adult, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;

*Appendix L*

2. I am the owner of Moku Roots LLC. It is a restaurant that serves alcohol. It is located at 335 Keawe st Lahaina hi 96761.
3. If H.R.S. § 134-A(a)(4) i.e., Hawaii's restriction on carrying firearms by concealed carry permit holders in restaurants that serve alcohol and their parking lots were repealed or enjoined or otherwise no longer in effect, I would allow members of the public, including the Plaintiffs in this case, to carry in my business, on my property and parking lot.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 19, 2023.

/s/ \_\_\_\_\_  
Alexa Caskey

**APPENDIX M — EXHIBIT 5:  
SUPPLEMENTAL DECLARATION OF  
PLAINTIFFS, DATED JULY 20, 2023**

Kevin Gerard O’Grady  
Law Office of Kevin O’Grady, LLC  
1164 Bishop Street, Suite 1605  
Honolulu, Hawaii 96813  
(808) S21-3367  
Hawaii Bar No. 8817  
Kevin@kevinOGradyLaw.Com

Alan Alexander Beck  
Law Office of Alan Beck  
2692 Harcourt Drive  
San Diego, CA 92123  
(619) 90S-9105  
Hawaii Bar No. 9145  
Alan.alexander.beck@gmail.com

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD , ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL  
CAPACITY AS THE ATTORNEY GENERAL  
OF THE STATE OF HAWAII,

*Defendant.*

430a

*Appendix M*

**SUPPLEMENTAL DECLARATION  
OF JASON WOLFORD**

**COMES NOW**, Jason Wolford, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;
2. I am a Plaintiff in this case.
3. In the past, I have gone to the following business while carrying a concealed weapon and my carry concealed weapon permit and would continue to frequent these businesses, the adjacent area and parking areas, while armed with a concealed firearm and with my concealed firearm permit but for state law and the threat of criminal prosecution: Island lock and Safe, Lahaina Diversity Surf, Down the Hatch, Grace Bible Maui, Mala Ocean Tavern. If H.R.S. §134-E, i.e., the law which requires Hawaii businesses to put up a sign or give consent for members of the public to be able to carry firearms were repealed or enjoined or otherwise no longer in effect, I would carry at all these places. Kula Glass Company, CWA Ventures LLC, Hawaii Fabrication LLC, Pitzer Built Construction, LLC, Island Spice Hawaii Hale Parfum, Zuma Development, Akamai Fire Protection LLC -Down the Hatch, Mala Ocean Tavern, Island Lock and

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*Appendix M*

Safe, Grace Bible Church Maui, Lahaina Dive and Surf LLC, All About Fish Maui, Fine Art Visions LLC, King Screen Printing, The Fish Market Maui, Truth Excavation LLC, Welcome to Hawaii Properties and J2C Hawaii, LLC.

4. If H.R.S. § 134(a)(4) i.e., the law which bans the carry of firearms by members of the public were repealed, enjoined or otherwise no longer in effect I would carry a firearm at the following restaurants that serve alcohol Down the Hatch, Mala Ocean Tavern and Moku Roots LLC.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 20, 2023.

/s/  
Jason Wolford

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*Appendix M*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD , ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL  
CAPACITY AS THE ATTORNEY GENERAL  
OF THE STATE OF HAWAII,

*Defendant.*

**SUPPLEMENTAL DECLARATION  
OF ALISON WOLFORD**

COMES NOW, Alison Wolford, and states as follows:

1. I am a natural person, an adult female, United States of America citizen, resident of the State of Hawaii and County Maui. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;
2. I am a Plaintiff in this case.

*Appendix M*

3. In the past, I have gone to the following business while carrying a concealed weapon and my carry concealed weapon permit and would continue to frequent these businesses, the adjacent area and parking areas, while armed with a concealed firearm and with my concealed firearm permit but for state law and the threat of criminal prosecution: Akamai Fire Protection, Down the Hatch, Mala Ocean Tavern, Island Lock and Key, Grace Bible Church Maui, Lahaina Dive and Surf, The Fish Market Maui
4. If H.R.S. § 134-E, i.e., the law which requires Hawaii businesses to put up a sign or give consent for members of the public to be able to carry firearms at our church, were repealed or enjoined or otherwise no longer in effect, I would carry at all these places. Kula Glass Company, CWA Ventures LLC, Hawaii Fabrication LLC, Pitzer Built Construction, LLC, Island Spice Hawaii Hale Parfum, Zuma Development, Akamai Fire Protection LLC – Down the Hatch, Mala Ocean Tavern, Island Lock and Safe, Grace Bible Church Maui, Lahaina Dive and Surf LLC, All About Fish Maui, Fine Art Visions LLC, King Screen Printing, The Fish Market Maui, Truth Excavation LLC, Welcome to Hawaii Properties and J2C Hawaii, LLC.
5. If H.R.S. § 134(a)(4) i.e. the law which bans the carry of fireanns by members of the public were repealed, enjoined or otherwise no longer in effect

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I would carry a fireann at the following restaurants that serve alcohol Down the Hatch, Mala Ocean Tavern and Moku Roots LLC.

**FURTHER, DECLARANT SAYETH NAUGHT.**

I certify under penalty of perjury that the foregoing is true and conect.

Executed on July 20, 2023.

/s/  
Alison Wolford

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*Appendix M*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

Civil Action No. 1:23-cv-00265-LEK-WRP

JASON WOLFORD , ALISON WOLFORD, ATOM  
KASPRZYCKI, HAWAII FIREARMS COALITION,

*Plaintiffs,*

v.

ANNE E. LOPEZ, IN HER OFFICIAL  
CAPACITY AS THE ATTORNEY GENERAL  
OF THE STATE OF HAWAII,

*Defendant.*

**SUPPLEMENTAL DECLARATION  
OF ATOM KASPRZYCKI**

**COMES NOW**, Atom Kasprzycki, and states as follows:

1. I am a natural person, an adult male, United States of America citizen, resident of the State of Hawaii and County Maui. If called as a witness in this matter, I would provide the following testimony and I make this declaration based on personal knowledge, except where otherwise stated;
2. I am a Plaintiff in this case.

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3. In addition to the parks and beaches I listed in my first declaration I also frequent the following beaches and parks on a regular basis.
4. I have in the past regularly frequented the following beaches, parking lots and adjacent areas, listed below, and have, as a carry concealed license holder since 2022, and will in the future, own, possess, and carry a firearm with my concealed carry permit. I have every intention and desire to continue to carry my personal firearm in and at all these locations in the future, and places like them, but I will decline to do so because of the credible fear of arrest and prosecution due to SB1230. I intend to and will use my carry concealed permit to carry arms concealed in the locations referenced herein, but for the implementation and enactment of SB1230;
5. I frequent Waihou Spring Trail and the adjacent areas and parking areas. This park is across the street from my home in Olinda. I go there one to two times a month. I have frequented it in the past while carrying a concealed weapon and my permit. I would continue to frequent this trail/park, adjacent area and parking areas, in the future armed with a concealed firearm and with my concealed carry permit but for state law and the threat criminal prosecution.
6. In the complaint and in my previous declaration the bank in my business's parking lot was mistakenly

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identified as the Bank of Hawaii. It is Valley Isle Community Federal Credit Union.

7. I frequent Polipoli Spring State Park and the adjacent area and parking areas two to six times a year. I have frequented this park while carrying a concealed weapon and my carry concealed weapon permit. I would continue to frequent Polipoli Spring State Park, the adjacent area and parking areas, while armed with a concealed firearm and with my concealed firearm permit but for state law and the threat of criminal prosecution;
8. In the past, I have gone to the following business while carrying a concealed weapon and my carry concealed weapon permit and would continue to frequent these businesses, the adjacent area and parking areas, while armed with a concealed firearm and with my concealed firearm permit but for state law and the threat of criminal prosecution: Pitzer Built Construction, LLC, Island Spice Hawaii Hale Parfum, Zuma Development, Island Lock and Safe, All About Fish Maui, The Fish Market Maui, Truth Excavation LLC, Welcome to Hawaii Properties, Hi-Tech Surf Sports, Down the Hatch, Mala Ocean Tavern and Moku Roots LLC.
9. If H.R.S. §134-E, i.e., the law which requires Hawaii businesses to put up a sign or give consent for members of the public to be able to carry firearms, were repealed or enjoined or otherwise no longer in effect, I would carry at all these places. Kula Glass

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Company, CWA Ventures LLC, Hawaii Fabrication LLC, Pitzer Built Construction, LLC, Island Spice Hawaii Hale Parfum, Zuma Development, Akamai Fire Protection LLC, Island Lock and Safe, Grace Bible Church Maui, Lahaina Dive and Surf LLC, All About Fish Maui, Fine Art Visions LLC, King Screen Printing, The Fish Market Maui, Truth Excavation LLC, Welcome to Hawaii Properties, Hi-Tech Surf Sports and J2C Hawaii, LLC.

10. If H.R.S. § 134(a)(4) i.e. the law which bans the carry of firearms by members of the public were repealed, enjoined or otherwise no longer in effect I would carry a firearm at the following restaurants that serve alcohol Down the Hatch, Mala Ocean Tavern and Moku Roots LLC.

**FURTHER, DECLARANT SAYETH NAUGHT.**

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

Executed on July 20, 2023.

/s/ \_\_\_\_\_  
Atom Kasprzycki