

Nos. 25-238, 25-566

IN THE
Supreme Court of the United States

CUTBERTO VIRAMONTES, ET AL.,
PETITIONERS,
V.
COOK COUNTY, ILLINOIS, ET AL.,
RESPONDENTS.

EDDIE GRANT, JR., ET AL.,
PETITIONERS,
V.
RONNELL HIGGINS, ET AL.,
RESPONDENTS

On Writs of Certiorari to
the United States Court of Appeals
for the Seventh and Second Circuits

BRIEF *AMICUS CURIAE* FOR ROCKY
MOUNTAIN GUN OWNERS IN SUPPORT OF
PETITIONERS

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STATEMENT OF INTEREST OF *AMICUS CURIAE*

The right to keep and bear arms is a fundamental right that existed prior to the Constitution.¹ The right is not in any sense granted by the Constitution. Nor does it depend on the Constitution for its existence. Rather, the Second Amendment declares that the pre-existing “right of the people to keep and bear Arms shall not be infringed.” Rocky Mountain Gun Owners (“RMGO”) is a nonprofit membership and donor-supported organization with thousands of members nationwide. The sole reason for RMGO’s existence is to defend American citizens’ right to keep and bear arms. In pursuit of this goal, RMGO has filed numerous lawsuits seeking to uphold Americans’ Second Amendment rights. RMGO has a strong interest in this case because the guidance the Court will provide in its resolution of this matter will have a major impact on RMGO’s ongoing litigation efforts in support of Americans’ fundamental right to keep and bear arms.

SUMMARY OF ARGUMENT

This case concerns more than a single county ordinance or state law. It presents a recurring problem of constitutional administration: after this Court identifies conduct protected by the Second Amendment, some states and localities replace the invalidated restriction with a different mechanism designed to

¹Pursuant to this Court’s Rule 37.6, we note that no part of this brief was authored by counsel for any party, and no person or entity other than the Rocky Mountain Gun Owners or its members made any monetary contribution to the preparation or submission of the brief.

produce substantially the same practical result. *New York State Rifle & Pistol Assn., Inc. v. Bruen*, 597 U.S. 1 (2022), rejected interest balancing and required governments to justify covered firearms regulations by reference to the Nation’s historical tradition. *Wolford v. Lopez*, No. 24-1046 (U.S. June 25, 2026), confirms that a jurisdiction may not evade that rule by changing the regulatory form while preserving the constitutional burden.

The pattern is nationwide. Acquisition licenses, serial delays, cumulative fees, mandatory training, waiting periods imposed after eligibility has been established, expansive “sensitive place” designations, feature-based prohibitions, and categorical bans on commonly possessed semiautomatic firearms can operate individually or together to make exercise of the right costly and practically unavailable. Constitutional review must therefore examine what a law does, not merely the label a legislature gives it.

That same discipline is required of lower courts. Once the Second Amendment’s text covers the regulated conduct, the government bears the burden of proving a relevant historical tradition. Lower courts may not dilute that burden through generalized appeals to public safety, analogies defined at an excessive level of abstraction, or historical laws that disarmed groups denied equal citizenship. Such enactments do not establish a constitutional tradition authorizing modern bans on arms commonly possessed by law-abiding citizens for lawful purposes.

Cook County’s ban exemplifies the problem. It criminalizes possession of AR-15-platform and similar semiautomatic rifles even though those firearms are

“arms,” are commonly possessed for lawful purposes, and remain lawful in the great majority of States. The Court should reverse and make clear that constitutional rights cannot be narrowed through regulatory relabeling, cumulative burdens, or historically unsound analogy.

ARGUMENT

I. STATES AND LOCALITIES MAY NOT ACCOMPLISH INDIRECTLY WHAT THIS COURT HAS HELD THEY MAY NOT DO DIRECTLY.

The Second Amendment binds every level of government to a uniform constitutional rule. *McDonald v. City of Chicago*, 561 U.S. 742, 765, 791 (2010). Local preferences cannot shrink that guarantee. And after *Bruen*, the governing method is not open-ended proportionality review. When the Second Amendment’s plain text covers an individual’s conduct, that conduct is presumptively protected. The government must then demonstrate that any restriction is consistent with the nation’s historical tradition of firearm regulation. *Bruen*, 597 U.S. at 17, 24.

Wolford illustrates the necessary functional approach. After *Bruen* invalidated discretionary carry licensing, Hawaii imposed a default prohibition on licensed carry across private property open to the public unless an owner affirmatively consented. This Court held that the state could not preserve the practical effect of the former regime by changing the legal mechanism. The lesson is broader than the particular property rule: a jurisdiction may not respond to a constitutional decision by inventing a substitute burden that again makes ordinary exercise of the right exceptional.

That principle applies when governments layer restrictions on acquisition, possession, and use. A permit-to-purchase requirement may be described as administrative; a waiting period as temporary; a training mandate as educational; a fee as incidental; and a feature-based ban as product regulation. But when those measures are delayed, repetitive, expensive, discretionary, or combined, they can transform a right held by the people into a privilege available only after official permission and substantial expense. Courts should examine the entire regulatory pathway and ask whether government has proved a historical tradition supporting the actual burden imposed.

This does not necessarily mean that every administrative rule is unconstitutional. It means that the government must carry the burden *Bruen* assigns to it, and that courts must distinguish a genuine regulation from an obstacle course designed to chill the exercise of a Second Amendment right and achieve the same practical purpose as an outright ban. Recent state legislative history shows that this is not an idle fear. The Court's holding in *Wolford* was in direct response to Hawaii's attempt to outflank the plain holding of *Bruen*. Nor is this concern limited to the states: Appellate courts have repeatedly held that *Bruen*'s footnote nine automatically blesses most regulatory regimes and that gun regulatory laws are often not subject to the *Bruen* test at all. Should this Court's holding in *Viramontes* extend only to outright bans, history shows that lower courts and states alike will center around regulatory methods to thwart the holding of this Court. The Constitution protects practical exercise, not merely theoretical availability.

The distinction between regulation and obstruction is not novel. *Heller* rejected the proposition that the Second Amendment may be reduced to whatever regulatory space a legislature chooses to leave open. *District of Columbia v. Heller*, 554 U.S. 570, 634–35 (2008). *Bruen* likewise rejected the idea that courts may uphold a burden simply because judges deem it reasonable or useful. 597 U.S. at 22–23. Those holdings require scrutiny of both legal form and practical operation.

The post-*Bruen* experience demonstrates why that functional inquiry is indispensable. When discretionary carry licensing became untenable, New York enacted a response statute that retained character review, added interviews, references, extensive training, and recurring recertification, and declared broad categories of ordinary public places off limits. Hawaii adopted a default rule against licensed carry on private property open to the public absent affirmative consent. Other jurisdictions have retained or expanded acquisition licenses, waiting periods, purchaser certificates, firearm rosters, registration systems, and feature-based bans. Each device is defended as a separate modest precaution. Together they leave the citizen with a right that exists on paper but is difficult to exercise in fact.

A legislature’s stated purpose cannot control the constitutional analysis. A jurisdiction may sincerely invoke public safety and still choose policies that the Constitution forbids. The operative questions remain whether the regulated conduct falls within the Second Amendment’s text and whether the government has identified a representative historical tradition supporting the challenged burden. A modern law does not

become valid because it is technologically elaborate, administered through an online portal, or divided among several agencies. Nor may a government manufacture constitutionality by separating one severe burden into a sequence of individually smaller ones.

II. COLORADO'S NEW PERMIT-TO-PURCHASE AND LICENSING SCHEME ILLUSTRATES HOW STATES CAN CONVERT A BAN ON COMMON ARMS INTO A SYSTEM OF PRIOR GOVERNMENT PERMISSION.

Colorado Senate Bill 25-003, codified at Colo. Rev. Stat. § 18-12-116, became operative law on August 1, 2026. The statute begins with a criminal prohibition: a person may not knowingly manufacture, distribute, transfer, sell, or purchase a “specified semiautomatic firearm.” That category includes semiautomatic rifles and shotguns with detachable magazines and gas-operated semiautomatic handguns with detachable magazines, subject to enumerated exclusions. The prohibition reaches AR-15-platform rifles and many other ordinary semiautomatic firearms. The first violation is a class 2 misdemeanor; a subsequent violation is a class 6 felony.

The law then creates a conditional escape from that ban. An ordinary purchaser may acquire a covered firearm only after completing the prescribed training and obtaining a sheriff-issued firearms-safety-course eligibility card. A person with qualifying hunter education must also complete a basic firearms-safety course; a person without it must complete an extended course. Colorado’s implementation materials describe those courses as four and twelve hours, respectively. The course must have been completed within the

preceding five years, so continued access to protected arms depends on recurring, state-approved instruction and current governmental certification.

That scheme regulates conduct at the core of the Second Amendment. The right to “keep” arms necessarily includes the antecedent right to acquire them. One cannot possess an arm for lawful purposes without first obtaining it. And the firearms Colorado singles out are “arms” under the Amendment’s ordinary meaning. Many are commonly possessed semiautomatic firearms of the same general type involved here. Colorado therefore bears the burden of demonstrating that conditioning their acquisition on prior approval, mandatory training, and an eligibility card is consistent with the Nation’s historical tradition. *Bruen*, 597 U.S. at 17, 24.

Colorado cannot carry that burden by pointing to historical measures addressing dangerous conduct or persons adjudged to pose a threat. Founding-era governments punished misuse and sometimes disarmed individuals based on a particularized reason. *United States v. Rahimi*, 602 U.S. 680, 690–700 (2024), likewise concerns temporary disarmament following an individualized judicial finding of a credible threat. Colorado statute 18-12-116 instead begins by criminally forbidding the entire public from acquiring a broad class of common arms and restores access only after each purchaser satisfies a modern administrative program. That is universal preclearance, not individualized dangerousness.

Nor does *Bruen*’s discussion of objective “shall-issue” carry licensing save Colorado’s law. The Court did not approve every licensing mechanism and expressly

warned that even nominally objective systems may be unconstitutional when lengthy processing or exorbitant fees deny ordinary citizens their rights. 597 U.S. at 38 n.9. Colorado’s scheme concerns acquisition, not merely carrying an already-owned arm. It layers a sheriff-issued credential and hours of mandatory instruction on top of the background check required for the transaction, makes the qualification expire, delegates the content and availability of required courses to state administration and approved instructors, and backs the entire process with criminal punishment. “Shall issue” is not a constitutional answer when the State has first declared the protected transaction unlawful.

The statute’s structure confirms its constitutional defect. Colorado did not adopt a narrow procedure limited to promptly verifying an objective, historically grounded disqualification. It enacted a categorical ban and made government-approved education and licensing the price of an exception. The burdens are cumulative: locate an approved in-person course, devote the required time, pay associated costs, satisfy the prescribed curriculum, obtain and maintain state-recorded eligibility, secure a sheriff-issued card, and still complete the ordinary transaction background check. Rural residents, low-income citizens, persons needing an arm promptly for self-defense, and anyone facing limited course capacity bear the greatest practical burden. The Court should make clear that a State may not evade *Heller*’s protection of common arms by banning their sale and then offering a temporary license to those able to navigate a costly and recurring permission system.

Colorado's own title for section 18-12-116 confirms the substitution at work: "Enforcement of large-capacity magazine ban by regulating the manufacture, distribution, transfer, sale, and purchase of specified semiautomatic firearms." The State has linked an existing magazine restriction to a new prohibition on the firearms that accept detachable magazines. Instead of defending a direct ban on the possession of the rifles, shotguns, and handguns themselves, Colorado prohibits the commercial and private transactions through which citizens ordinarily acquire them, then creates training-based exceptions. The practical objective is the same as a ban: suppress future acquisition and gradually reduce lawful civilian possession.

The breadth matters. The law is not confined to machineguns, unusually destructive devices, or arms rarely selected by civilians. It reaches common semiautomatic operating systems and detachable-magazine designs found across modern rifles, shotguns, and handguns. Semiautomatic operation fires one round for each trigger activation and uses the energy of firing to chamber the next round. That basic mechanism has been commercially available for generations. Detachable magazines likewise facilitate ordinary loading; they do not transform a semiautomatic arm into an automatic weapon. By defining the prohibited class through these ubiquitous characteristics, Colorado places a substantial segment of the contemporary firearms market behind a licensing wall.

Mandatory training magnifies that burden because its cost is not measured only by tuition. An applicant must locate an approved instructor, obtain a seat in an available course, travel to the site, arrange work and family obligations, complete the prescribed hours,

and preserve documentation acceptable to the issuing sheriff. The extended course is especially consequential for citizens who have not previously completed a hunter education course. The requirement falls unevenly across a geographically large State: an applicant in a rural county may face fewer instructors, longer travel, and less frequent offerings than an applicant in the Denver metropolitan area. A constitutional right cannot depend on the happenstance of local course capacity.

The sheriff-issued eligibility card creates an additional point of governmental control. Even after a citizen completes the State's curriculum, the protected purchase depends on accurate records, functioning systems, adequate staffing, consistent county practices, and timely issuance. Administrative failure becomes a constitutional deprivation because the statute makes the transaction criminal without the credential. The recurring five-year requirement compounds the problem. A citizen who once satisfied every eligibility criterion must periodically repeat state-approved instruction to retain access to covered arms, even absent any intervening conduct suggesting disqualification. The right is thus converted from a continuing constitutional status into a renewable administrative privilege.

Colorado may contend that training promotes safe handling or that licensing improves enforcement of its magazine restriction. Those are policy arguments of the kind *Bruen* excludes from the constitutional test. 597 U.S. at 19. The Second Amendment itself embodies the relevant balance. If the conduct is covered, the State must identify historical support for the means it selected, not merely a contemporary interest those

means might advance. Less burdensome alternatives may underscore the excessiveness of the law, but the decisive defect is more basic: Colorado has not inherited a general police power to suspend acquisition of common arms until citizens satisfy a newly created educational and licensing program.

III. LOWER COURTS MUST ENFORCE BRUEN'S BURDEN OF PROOF AND REJECT HISTORICALLY ILLEGITIMATE ANALOGIES.

Resistance to this Court's Second Amendment jurisprudence appears all too frequently. Some courts begin with the government's preferred policy outcome, describe the challenged law at a high level of generality, and then search for any historical enactment involving weapons or public danger. That reverses *Bruen*. The government must identify a representative tradition that is relevantly similar in how and why it burdened the right. 597 U.S. at 29–30. Scattered, late, or materially different laws cannot establish that tradition.

Nor may the government build a modern constitutional power from laws that disarmed Native Americans, formerly enslaved people and Freedmen, Catholics, or other groups denied full civic equality. Wolford, slip op. at 24. Those enactments reveal past violations of equality and liberty. They do not supply an affirmative tradition authorizing government to disarm today's law-abiding citizenry or ban arms commonly chosen for lawful purposes. Treating such laws as constitutional exemplars would convert historical injustice into present governmental power.

Historical scholarship can assist courts, but it cannot change the allocation of burdens or substitute abstraction for legal judgment. The question is not whether an expert can identify some past weapons rule. It is whether Respondents have proved a sufficiently established and relevantly similar tradition supporting this categorical ban. On that question, judicial neutrality requires fidelity to the constitutional test rather than deference to preferred policy outcomes.

The recurring errors take several forms. Some courts collapse the textual step by asking whether the challenger has established a right to a particular weapon, place, or transaction, even though *Bruen* places the historical burden on the government once the conduct falls within the Amendment’s text. Others treat any law involving weapons as a sufficient analogue, ignoring the requirement of comparable “how” and “why.” Still others revive means-end scrutiny under new vocabulary, crediting legislative findings about risk before asking whether the regulation belongs to an established historical tradition. Other district courts treat any “commercial regulation” as being blessed by *Bruen*’s footnote 9. Each approach restores the judicial balancing that this Court rejected.

New York provides the clearest legislative example. Within days of *Bruen*, the State enacted the Concealed Carry Improvement Act. Official state materials described it as a direct response to the decision. The Act replaced “proper cause” with a new assemblage of burdens: character review, an in-person interview, character references, disclosure requirements, sixteen hours of training, recurring recertification, and a sweeping list of “sensitive locations.” It also

adopted a default rule restricting carry on private property. A license nominally became easier to obtain under one criterion while becoming more burdensome and less useful overall.

Hawaii illustrates the same strategy at both acquisition and carry. State law requires a permit before a person may acquire ownership of virtually any firearm, including by gift or inheritance. The application requires fingerprints, a photograph, information about mental-health history, waivers for access to records, and information bearing on whether officials believe the applicant has the “essential character or temperament” to be entrusted with a firearm. The State separately attempted to make licensed carry presumptively unlawful on private property open to the public without affirmative owner authorization. The mechanisms differ, but the premise is identical: ordinary citizens begin without permission and must persuade the government that exercise is allowed.

Maryland, New Jersey, and Illinois demonstrate how acquisition and possession can be made contingent on overlapping credentials. Maryland requires a Handgun Qualification License before a resident may purchase, rent, or receive a handgun, along with fingerprinting, training, and a live-fire component. New Jersey requires a firearms purchaser identification card for long guns and a separate permit to purchase a handgun, supported by fingerprinting, references, criminal-history review, and a mental-health-records search. Illinois requires residents to obtain a Firearm Owner’s Identification card to lawfully acquire or possess firearms or ammunition, while dealers also conduct a point-of-sale Firearm Transfer Inquiry

Program check. These systems place licensing both before and at the transaction.

California uses a different but equally cumulative architecture. A purchaser ordinarily must transact through a licensed dealer, submit a Dealer's Record of Sale, satisfy identification and residency requirements, hold a Firearm Safety Certificate unless exempt, pay multiple fees, and wait before delivery even after submission of the background-check information. State law also limits commercial availability through model restrictions and feature-based prohibitions. The individual requirements are administered as separate programs, but their constitutional effect is collective. The State controls who may buy, what may be bought, when it may be delivered, and whether a commercially available model is eligible for sale.

Massachusetts likewise conditions acquisition and possession on a Firearm Identification Card or License to Carry and has expanded its statutory system through Chapter 135 of the Acts of 2024. Official implementation materials describe enhanced basic-firearms-safety requirements, including live fire for new applicants, broader licensing review, age restrictions on semiautomatic rifles and shotguns, revised definitions, restrictions on so-called assault-style firearms, and additional prohibited locations. Again, the constitutional issue is not whether one training lesson or one application question could be defended in isolation. It is whether the Commonwealth can demonstrate historical support for a comprehensive permission system governing possession, acquisition, models, places, and renewal.

These examples do not ask the Court to adjudicate every statute in this case. They show the consequences of imprecise doctrine. When a decision leaves room to relabel a ban as licensing, convert discretion into multifactor “character” review, or make a license practically useless through place restrictions, jurisdictions will occupy that room. A clear decision concerning common semiautomatic rifles will therefore influence more than model lists. It will determine whether governments may achieve prohibited ends through transaction controls, administrative prerequisites, and cumulative burdens.

Proper historical analysis must attend to prevalence, timing, and constitutional context. A handful of late-nineteenth-century territorial enactments cannot establish the original meaning of a right adopted in 1791. Laws enacted long after ratification may confirm an earlier understanding when they are consistent and widespread, but they cannot change the text’s meaning. Nor should silence be counted against the right. Where the government bears the burden, the absence of analogous regulation, especially despite widespread possession and familiar social concerns, is evidence that the asserted power was not part of the historical tradition.

Discriminatory enactments are especially poor analogues because their “why” was exclusion from the political community, not regulation of equally protected citizens. Laws directed at Native peoples, enslaved persons, Freedmen, religious minorities, or persons deemed disloyal often rested on premises incompatible with the Fourteenth Amendment and with the Second Amendment’s protection of “the people.” *Wolford*, slip op. at 24. The government cannot abstract

those laws into a neutral principle of discretionary disarmament while discarding the very rationale that produced them. Doing so launders an unconstitutional caste system into a modern police power.

Experts may identify sources, explain terminology, and illuminate historical practice. But the constitutional judgment belongs to courts. An expert's selection of analogues cannot relieve the government of showing a representative tradition, and academic disagreement cannot justify default deference to legislation. Courts must test whether cited enactments were widespread, enduring, enforced, and relevantly similar in burden and justification. They must also account for contrary evidence such as constitutional provisions, judicial decisions, treatises, militia practices, and the absence of comparable restrictions where the purported problem was known.

IV. A CLEAR, ADMINISTRABLE DECISION IS NECESSARY TO PREVENT CONTINUING CIRCUMVENTION.

A narrow decision confined to one drafting defect would invite another round of relabeling. The Court should state the governing rules directly: commonly possessed semiautomatic rifles are “arms”; categorical bans on those arms are incompatible with *Heller*; governments bear the burden specified in *Bruen*; and courts must evaluate the substance and cumulative operation of a regulatory scheme rather than its formal label.

Where lower courts persist in applying interest balancing, transfer the government's burden to the rights holder, or uphold materially identical restrictions through overgeneralized analogies, prompt appellate

correction, including summary reversal where appropriate, protects both the constitutional right and the hierarchical authority of this Court's decisions. The Second Amendment is not a second-class right, and it should not depend on the willingness of a particular jurisdiction to accept this Court's holdings.

The first needed clarification concerns protected arms. When a type of bearable arm is commonly possessed by law-abiding citizens for lawful purposes, government may not prohibit it by attaching a legislative label, identifying common features, or declaring that substitutes remain available. The choice among protected arms belongs to the people. The government could not defend a handgun ban by noting that long guns remained lawful. This rule would resolve the central issue here and prevent States from manipulating the level of generality to avoid *Heller*.

The second clarification concerns licensing. *Bruen*'s discussion of shall-issue regimes should not be mistaken for blanket approval of permits governing acquisition, possession, or carry.

The third clarification concerns regulatory substitution. Governments may not answer a decision protecting public carry by declaring most ordinary destinations "sensitive," answer a decision protecting common arms by prohibiting their sale, or answer a decision rejecting discretion by multiplying nominally objective prerequisites until few citizens complete them. Courts should view the challenged scheme as a whole and compare its practical burden with the historical tradition. That approach follows *Wolford*'s insistence that government cannot preserve the effect of an invalid rule through a new default.

Remedies must also match the constitutional injury. When a categorical ban covers common arms, severing a minor feature or ordering another round of interest balancing will not suffice. Courts should enjoin the prohibition to the extent it reaches constitutionally protected arms.

Clear rules also promote democratic accountability. A legislature remains free to address violence through measures consistent with the Constitution such as enforcing laws against violent crime, improving adjudication of disqualifying conduct, using individualized judicial procedures where historically justified, and funding voluntary safety education. What it may not do is obscure a categorical prohibition inside a licensing code or force citizens to prove exceptional worthiness before exercising a right guaranteed to the people. Requiring transparent constitutional lines ensures that policy choices are made within, rather than around, the supreme law.

The pattern across jurisdictions reinforces the need for that guidance. Colorado places common semiautomatic firearms behind expiring training credentials. New York combines licensing demands with broad place restrictions. Hawaii requires acquisition permits and attempted a private-property default. New Jersey, Maryland, Illinois, and Massachusetts require overlapping credentials governing acquisition or possession. California integrates waiting, certification, transaction reporting, model restrictions, and feature bans. Although the details vary, each system tests whether the Second Amendment protects ordinary conduct as a right or merely guarantees access to whatever narrow channel administrators leave open.

Cook County's ordinance is thus part of a broader constitutional controversy, not an isolated local classification. If the County may prohibit the Nation's most commonly chosen semiautomatic rifles by calling them assault weapons, Colorado may suppress the same arms through purchase licensing, and other states may combine credentials, waiting periods, model exclusions, and location bans until lawful ownership has little practical content. Reversal should foreclose that sequence. The Court should reaffirm that text, history, and tradition constrain regulatory ends as well as means, and that no jurisdiction may treat persistent relabeling as a license to evade precedent.

CONCLUSION

For the foregoing reasons, the judgments below should be reversed.

Respectfully submitted,

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