

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

GINO RECCHIA, III, et al.,
Petitioners,

v.

ANDREA CAMPBELL, et al.,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Second Amendment guarantees citizens the right to possess AR-15-platform and similar semiautomatic rifles, and whether the text of the Second Amendment guarantees citizens the right to possess weapons similar to those carried by regular military soldiers.

2. Whether Massachusetts has violated the dormant Commerce Clause by enacting a law that affects commerce among the several States when Congress has de facto allowed that commerce to occur.

PARTIES TO THE PROCEEDINGS

No party to this proceeding is a publicly traded corporation. No party to this proceeding has a stock ticker symbol.

Petitioners:

Gino Mario Recchia, III
Mass Armament, LLC

Respondents:

Andrea Joy Campbell, in her official capacity as
Attorney General of the Commonwealth of
Massachusetts
Gina Kwon, in her official capacity as Secretary of
the Executive Office of Public Safety and Security of
the Commonwealth of Massachusetts

CORPORATE DISCLOSURE STATEMENT

Mass Armament, LLC has no parent corporation, and no publicly held company owns 10% or more of its stock.

Gino Mario Recchia III is not a corporation.

STATEMENT OF RELATED PROCEEDINGS

The following proceedings are directly related to this case: United States District Court for the District of Massachusetts *Gino Recchia, III, et al. v. Andrea Campbell, et al.*, No. 1:24-cv-12560-RGS, judgment entered August 6, 2025.

United States Court of Appeals for the First Circuit *Gino Recchia, III, et al. v. Andrea Campbell, et al.*, No. 25-1817, judgment entered July 21, 2026.

There are no other proceedings in state or federal trial or appellate courts, or in this Court, that are directly related to this case.

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The opinion of the United States Court of Appeals for the First Circuit is reproduced in Appendix A at 1a–22a and is reported at *Recchia v. Campbell*, 183 F.4th 1 (1st Cir. 2026).

The memorandum and order of the United States District Court for the District of Massachusetts is reproduced in Appendix B at 23a–35a and is reported at *Recchia v. Campbell*, No. 1:24-cv-12560-RGS, 2025 WL 2229393 (D. Mass. Aug. 5, 2025).

The district court granted the defendants’ motion to dismiss on August 5, 2025, and entered judgment on August 6, 2025.

JURISDICTION

The judgment of the United States Court of Appeals for the First Circuit was entered on July 21, 2026. No petition for rehearing or rehearing en banc was filed. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS

Second Amendment:

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.

Article I, Section 8, Clause 3 of the U.S. Constitution:

The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States.

STATUTORY PROVISIONS

Mass. Gen. Laws ch. 140, § 131M. The pertinent text of this provision is reproduced in Appendix C at 36a–38a.

Mass. Gen. Laws ch. 140, § 121. The pertinent definitions are reproduced in Appendix C at 39a–43a.

STATEMENT OF THE CASE

1. The Massachusetts Firearms Ban.

Petitioner Gino Recchia III owns Petitioner Mass Armament, LLC, a Massachusetts firearms business. Petitioners brought this action challenging specified provisions of Massachusetts’s firearms law that prohibit the sale, transfer, and possession of designated semiautomatic firearms and related magazines. Petitioners challenge the provisions as applied to the semiautomatic rifles at issue, including AR-15-platform rifles.

Petitioners alleged that the challenged provisions deny law-abiding Massachusetts citizens the right to possess firearms comparable, in relevant respects, to arms carried by ordinary military soldiers. Petitioners further alleged that the ban excludes the firearms from the Massachusetts market and burdens the interstate commerce of manufacturers, dealers, and purchasers.

2. Proceedings Below.

Petitioners filed suit in the United States District Court for the District of Massachusetts under 42 U.S.C. § 1983 and 28 U.S.C. §§ 1331, 1343, 2201, and 2202. They alleged that the challenged provisions violate the Second Amendment and the dormant Commerce Clause.

The district court entered judgment against Petitioners. *Recchia v. Campbell*, No. 24-12560, 2025 WL 2229393 (D. Mass. 2025). Petitioners appealed to the United States Court of Appeals for the First Circuit.

The First Circuit affirmed. *Recchia v. Campbell*, 183 F.4th 1, 2026 (1st Cir. 2026). The court treated its prior decision in *Capen v. Campbell*, 134 F.4th 660 (1st Cir. 2025), as controlling on Petitioners' Second Amendment claim. The court also rejected Petitioners' dormant-Commerce-Clause claim. The court further stated in a footnote that an as-applied challenge had been waived. Petitioners contend that their amended complaint and appellate opening brief preserved their challenge to the specified provisions of the Act as applied to the firearms at issue.

This petition followed.

REASONS FOR GRANTING THE PETITION

I. THE SECOND AMENDMENT BARS ANY LAW THAT FORBIDS CITIZENS FROM KEEPING OR BEARING ARMS, AND SPECIFICALLY THOSE THAT THE REGULAR MILITARY SOLDIER CARRIES.

In previous cases, the Court has held that the Second Amendment protects citizens' rights to keep and bear arms for self-defense. This is certainly a reasonable corollary of the Second Amendment. But on December 15, 1791, when the Second Amendment was ratified, indubitably that was not the main reason for the Amendment. The main purpose of the Second Amendment was to ensure that the people were not disarmed of their military-style rifles in

order to ensure that no government would be able to disarm them for tyrannical aims.

This claim is easily discerned from the text of the Second Amendment.

“Militia . . . free State . . . Arms,” petitioner suggests, are the key words. The people of the United States were ensuring that what had happened through history—i.e., disarming the citizenry of their equal or similar arms used by the reigning military forces—would not happen in this country, thus preventing a “king” or government from subjecting them to tyranny. There is nothing said per se in the Amendment about ensuring that the people would be able to defend themselves on a personal basis, but only that their militia-type arms would not be taken away so that they could defend their “free State.”

What was of the utmost concern to the Founders and the early American citizenry clearly was the rights they incorporated into the first two amendments of the Constitution. They wanted to ensure they always had the right to speak freely, to assemble, practice their respective religions, to petition for relief, and that they had the right to defend themselves from criminals and possible tyrannical governments. What finally sparked the violent conflict was when British troops, the tyrannical government, went on a march to disarm the Patriots. It goes without saying that those who carry weapons—nay, superior weapons—will ultimately prevail over those with inferior weapons. Disarm your opponent and the war is won before it begins.

As the prestigious Heritage Foundation posited:

The right to keep and bear arms for self-preservation may vest in the individual, but it also secures a collective resistance against large-scale threats to liberty. The founding generation well understood that people who lack the means to defend and enforce their rights are not, in any meaningful sense, free. For centuries, ruling monarchs had often disarmed the general population and then employed professional armies or loyal “select” militias to impose their tyrannical rule on a defenseless people.

In a very real sense, the war for independence from Great Britain started over King George III’s attempts to do the same. As colonial frustrations over repeated injuries to their rights and liberties reached a breaking point, the royal response grew progressively hostile and heavy-handed. Increasingly larger numbers of royal soldiers were sent to occupy Boston, not to protect the civilians from foreign threats, but to enforce controversial laws at bayonet point and intimidate the colonists into submission. Ultimately, under orders from the King, General Thomas Gage led hundreds of well-armed professional troops to forcibly seize supplies of arms and gunpowder stored in some of the most disaffected areas of colonial America—the Massachusetts towns of Lexington and Concord. The ensuing skirmishes between British regulars and colonial militiamen were a final “spark” that set the Revolution ablaze. Had the colonists allowed themselves to be widely disarmed—or had they not already been one of the most widely armed civilian populations in history—

the Revolution would certainly have been doomed.

It is little wonder, then, that the Founders immediately sought to safeguard the “right of the people to keep and bear arms” in their new nation. Their foresight to guarantee a well-armed citizenry continues, even today, to ensure the “security of a free State.”

Heritage.org, “The Essential Second Amendment: The Origins of the Second Amendment.” In other words, when the Second Amendment was enacted, the Framers were just as concerned with the government taking their weapons for tyrannical purposes as they were for individual self-defense.

Other authorities have also spoken about the historical reasons behind the Second Amendment. For example, U.S. Congress records state:

Historical surveys of the Second Amendment often trace its roots, at least in part, through the English Bill of Rights of 1689. That provision grew out of friction over the English Crown’s efforts to use loyal militias to control and disarm dissidents and enhance the Crown’s standing army, among other things, prior to the Glorious Revolution that supplanted King James II in favor of William and Mary.

The early American experience with militias and military authority would inform what would become the Second Amendment as well, and standing armies of professional soldiers were viewed by some with suspicion.

Mistrust of standing armies, like the one employed by the English Crown to control the colonies, and anti-Federalist concerns with

centralized military power colored the debate surrounding ratification of the federal Constitution and the need for a Bill of Rights.

Fears remained during the ratification debates that these provisions of the Constitution gave too much power to the federal government and were dangerous to liberty.

https://constitution.congress.gov/browse/essay/amdt2-2/ALDE_00013262/ (citations omitted). In Federalist No. 29, Hamilton wrote:

By a curious refinement upon the spirit of republican jealousy, we are even taught to apprehend danger from the militia itself, in the hands of the federal government. It is observed that select corps may be formed, composed of the young and ardent, who may be rendered subservient to the views of arbitrary power. What plan for the regulation of the militia may be pursued by the national government is impossible to foresee.

And, from the President Reagan Library:

The notion of average citizens possessing their own weapons predates the Constitution. In the English Bill of Rights in 1689, Parliament allowed all Protestant English citizens to “have arms for their defence [sic] suitable to their conditions and as allowed by law.” This law was later commented on by Sir William Blackstone in his Commentaries on the Laws of England. He described the possession of weapons as an “auxiliary right,” designed to support the core rights of self-defense and resistance to oppression, as well as the responsibility for the armed citizenry to protect their homeland.

<https://www.reaganlibrary.gov/constitutional-amendments-amendment-2-right-keep-and-bear-arms> (emphasis added). Also see *District of Columbia v. Heller*, 554 U.S. 570, 592–93 (2008) (explaining how tyrannies first disarm their opponents prior to suppressing them); *id.* at 598 (explaining that history showed that tyrants eliminated a militia by taking away the people’s arms); *id.* at 608–09 (discussing disarmament and substitution of a regular army in place of the militia).

The Court's decision in *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), established the historical-tradition test for Second Amendment challenges. Under this framework, the government bears the burden of showing that firearm regulations are consistent with the Nation's historical tradition of firearm regulation. See *United States v. Rahimi*, 602 U.S. 680, 691–92 (2024). The First Circuit's application of this test in *Capen* failed to account for the historical purpose of the Second Amendment—ensuring citizens could resist tyranny through possession of military-style arms.

The arms at stake during the Founding were, of course, muskets. According to [AmericanRevolution.org](https://www.americanrevolution.org/weapons/), both the Continental and British Armies were equipped with the Brown Bess musket during the Revolutionary War, and it was “the most commonly used weapon of the American Revolution, as it was in continual service by large numbers of troops throughout the conflict.” The Continental Army also used the Charleville musket, which was the equivalent of the Brown Bess. See <https://www.americanrevolution.org/weapons/>.

Another important factor is that when the Second Amendment was passed, it was assumed that the

“arms” in question were at least equal to the arms that military soldiers carried. In fact, during the Revolutionary War, the American military had the same type of muskets as did British soldiers, which Americans had kept in their homes to defend against, for one thing, tyranny. If they had not had those weapons, this Court would not even exist. Consequently, the Second Amendment has to encompass arms that are at least nearly equal to those that the regular military soldier carries. The courts that have made decisions relative to the banned-weapons statutes now at issue here and across the country have not given consideration to this historical fact. When the Second Amendment was ratified, Americans had the equivalent rifle that the soldier in the best military in the world carried. Americans nowadays ought to have this same right as did those Americans in 1791 when the Second Amendment was ratified. That was the historical understanding when the Second Amendment came into existence.

Counsel submits that none of the decisions of the appellate courts have considered the fact that the Second Amendment was codified to protect citizens from the threat of tyranny. In that respect, the court below denied relief primarily based on stare decisis from its former decision in *Capen v. Campbell*, 134 F.4th 660 (2025), which used the “nuanced approach” and determined that “historical precedent” showed regulations of comparable weapons or arms—such as Bowie knives. *Capen*, however, never considered petitioner’s argument, and the court below would not consider petitioner’s argument because it was bound by the panel decision in *Capen*.

Capen was wrongly decided, petitioner contends. We are not going to belabor the point here, however, because the Court has already granted certiorari to hear two cases virtually similar to the issues decided in Capen and the instant case. However, petitioner points out to the Court that the arguments go further than the issues presented in Capen and the two cases in which certiorari has been granted. Petitioner claims that the Second Amendment also guarantees citizens the right to possess firearms equal to or similar to those carried by the ordinary soldier. While the AR-15 is not equal to the military's M-16, it is fairly seen as the equivalent. While the AR-15 is not fully automatic as the M-16, the fully automatic mode is not usually used by the military in favor of small bursts.

In summation, the Second Amendment guarantees citizens the right to carry an equal or equivalent firearm as that carried by the usual military soldier. The text of the Amendment states such a right. Moreover, the approach used by the court below and the Capen panel to uphold the ban at issue were both wrongly decided, and plaintiff also relies on arguments in the courts below as to the issues that the Court is going to decide in the next term in the two cases for which the Court granted certiorari. However, petitioner is simply not repeating all the same arguments here that are already before the Court for review.

Petitioner notes that he raised in the court below all the arguments that are now before the Court in the two cases in which the Court has granted certiorari. However, petitioner was virtually foreclosed by the Capen decision in rehashing all the arguments that had been denied by that decision and

therefore did not raise them per se in the opening brief, but asked the court below to reconsider Capen in light of petitioner's further arguments that military-style weapons were specifically protected by the Second Amendment. In that respect, respondent argued Capen in the opposition brief, ignoring petitioner's main argument, and therefore petitioner argued in the reply brief that Capen was wrongly decided because the decision went against this Court's instructions on how to decide Second Amendment issues. Consequently, petitioner asserts that not only are the arguments about the plain text of the Second Amendment preserved, but so are the arguments that Capen failed to follow this Court's jurisprudence when it came to deciding Second Amendment claims.

II. MASSACHUSETTS'S BAN OF THE WEAPONS INVOLVED IN THIS CASE VIOLATES THE DORMANT COMMERCE CLAUSE

If the court below's decision in this case is allowed to stand, then it will stand for the proposition that if Massachusetts wants to enact legislation that bars the Ford Motor Company from shipping its cars to Massachusetts and bars Ford access to the Massachusetts retail market, then that is constitutional. It will also uphold any law that bans Ford Motor products from being in Massachusetts, making it criminal for Massachusetts citizens to possess them.

Fortunately, that is not the law as interpreted by this Court over 77 years ago in *H.P. Hood & Sons, Inc. v. Du Mond*, 336 U.S. 525, 539 (1949).

Our system, fostered by the Commerce Clause, is that every farmer and every craftsman shall be encouraged to produce by the certainty that he will have free access to every market in the Nation, that no home embargoes will withhold his exports, and no foreign state will by customs, duties, or regulations exclude them.

The court below correctly recognized the jurisprudence interpreting the Commerce Clause and the dormant Commerce Clause:

The Constitution grants Congress the power to regulate interstate commerce. U.S. Const. art. I, § 8, cl. 3. “While the Commerce Clause’s text provides only an affirmative grant of power,” it has long “been interpreted to contain a negative aspect known as the dormant Commerce Clause.” *Walgreen Co. v. Rullan*, 405 F.3d 50, 55 (1st Cir. 2005). This negative aspect “prohibits state laws that unduly restrict interstate commerce.” *Ass’n to Preserve & Protect Loc. Livelihoods v. Sidman*, 147 F.4th 40, 55 (1st Cir. 2025) (quoting *Tenn. Wine & Spirits Retailers Ass’n v. Thomas*, 588 U.S. 504, 514 (2019)). Specifically, state laws “may not discriminate against interstate commerce” or “impose undue burdens on interstate commerce.” *Id.* at 55–56 (quoting *South Dakota v. Wayfair, Inc.*, 585 U.S. 162, 173 (2018)).

Appendix A at 12a–13a. But thereafter the panel went astray. For one thing, the panel decision failed to address petitioner’s claim that Congress affirmatively took actions that allow all citizens to possess the banned weapons, but respondents usurped congressional power and banned the weapons in Massachusetts. The panel held that

“Massachusetts is merely exercising its sovereign authority to ‘exclude from its territory, or prohibit the sale therein of any articles which, in its judgment, fairly exercised, are prejudicial to the interests of its citizens.’” *Id.* at 14a. In other words, Massachusetts can take away from its citizens rights granted to those citizens by Congress. Moreover, the panel relegated part of petitioner’s argument to footnote 7, stating that petitioner failed to cite cases holding that Congress’s affirmative negative action demonstrates “preemptive legislation.”

The crux of this issue centers around Congress’s action in 1994 banning the firearms at issue in this case. This ban was apparently a lengthy test to see if such a ban would have an effect, *inter alia*, on incidents of mass violence. After the ten-year period, the ban automatically was repealed. Efforts to reinstate the ban have failed. On April 17, 2013, the Senate affirmatively failed to pass a bill similar to the former ban. Although the House voted to reinstate a similar ban on July 29, 2022, the Senate affirmatively allowed the House bill to die at the end of the term.

Thus, Congress learned from ten years of experience that the ban did not work. Congress took affirmative action by allowing the ban to expire, and then more affirmative action to stop similar bans from being revived. This congressional action was *de facto* permission for all citizens of the United States to possess the firearms banned by Massachusetts and that Congress was not going to any longer wield its Commerce Clause power to regulate the firearms in question. These issues were clearly presented in the complaint and brought to the attention of the court below.

Massachusetts cannot regulate interstate commerce in the buying and selling of the banned weapons after Congress has taken affirmative action specifically allowing interstate commerce of these firearms. Despite the panel's assertion that there are no cases in which negative action demonstrates preemptive legislation, this is not the entire issue.

First of all, significant laws—like the Second Amendment right to possess arms—must be consistent throughout the United States. *Cooley v. Board of Wardens*, 53 U.S. 299, 319 (1851) (commenting on what requires “exclusive legislation by Congress”). See also *Southern Pacific Co. v. Arizona*, 325 U.S. 761, 767 (1945) (“States have not been deemed to have authority to impede substantially the free flow of commerce from state to state, or to regulate those phases of the national commerce which, because of the need of national uniformity, demand that their regulation, if any, be prescribed by a single authority”).

In the instant case, the Court must deal with the national uniformity that all citizens have a Second Amendment right to possess the banned firearms at issue. If that is the case, then the Act at issue exceeds the power of Massachusetts that affects the Commerce Clause by limiting national manufacturers of some firearms to market their products in Massachusetts. The dormant Commerce Clause comes into play here because the regulation of firearms moving freely between the States is the sole prerogative of Congress to regulate, not Massachusetts. In that respect, if Massachusetts can pass a law denying certain firearms manufacturers from selling their wares in Massachusetts, then they can ban any product from coming into their State,

thereby affecting interstate commerce. But that type of power is delegated by the Constitution only to Congress, not Massachusetts.

The Court has already granted certiorari in two consolidated cases addressing whether the Second and Fourteenth Amendments guarantee the right to possess AR-15 platform and similar semiautomatic rifles: *Viramontes v. Cook County*, No. 25-238, and *Grant v. Higgins*, No. 25-566 (both granted June 30, 2026). This case presents a related but distinct question about the dormant Commerce Clause implications of state assault-style firearm bans. Resolution of this issue alongside the pending Second Amendment cases would promote judicial efficiency and ensure uniform application of constitutional principles regarding firearms regulation.

CONCLUSION

For any or all of the above reasons, the Court ought to grant certiorari.

Respectfully submitted,

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APPENDIX

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**APPENDIX A — OPINION OF THE UNITED
STATES COURT OF APPEALS FOR THE FIRST
CIRCUIT, FILED JULY 21, 2026**

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 25-1817

GINO MARIO RECCHIA, III, INDIVIDUALLY AND
AS OWNER OF MASS ARMAMENT, LLC, INC.;
MASS ARMAMENT, LLC, INC.,

Plaintiffs-Appellants,

v.

ANDREA JOY CAMPBELL, IN THE OFFICIAL
CAPACITY AS ATTORNEY GENERAL OF THE
COMMONWEALTH OF MASSACHUSETTS;
GINA K. KWON* IN THE OFFICIAL CAPACITY
AS SECRETARY OF THE EXECUTIVE OFFICE
OF PUBLIC SAFETY AND SECURITY OF THE
COMMONWEALTH OF MASSACHUSETTS,

Defendants-Appellees,

and

* Pursuant to Federal Rule of Appellate Procedure 43(c)(2), Gina Kwon is substituted for the former Secretary of the Executive Office of Public Safety and Security of the Commonwealth of Massachusetts, Terrence M. Reidy.

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Appendix A

MAURA HEALEY, IN THE INDIVIDUAL
CAPACITY,

Defendant.

APPEAL FROM THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT
OF MASSACHUSETTS.

(Hon. Richard G. Stearns, *U.S. District Judge*)

Before

Aframe, Lynch, and Dunlap, *Circuit Judges.*

July 21, 2026, Decided

OPINION

AFRAME, *Circuit Judge.* Since 1998, Massachusetts has prohibited the sale, transfer, or possession of certain semiautomatic assault weapons. *See* Mass. Gen. Laws ch. 140, §§ 121 and 131M (1998). In 2024, Massachusetts extended the scope of its prohibition to include “assault-style firearms.” *See* 2024 Mass. Acts ch. 135 § 71 (codified at Mass. Gen. Laws ch. 140, §§ 121 and 131M). Following the 2024 statutory amendments, Gino Mario Recchia, III, and Mass Armament, LLC, a gun store that Recchia owns, brought an official-capacity claim against the Massachusetts Attorney General and Secretary of the Executive Office of Public Safety and Security, alleging that certain provisions of the amended law are facially

Appendix A

unconstitutional. The state defendants successfully moved to dismiss for failure to state a claim. We affirm.

I.

“An Act Modernizing Firearm Laws” (“the Act”) was signed into law on July 25, 2024. *See* 2024 Mass. Acts ch. 135. As is relevant here, the Act requires that “[n]o person shall possess, own, offer for sale, sell or otherwise transfer in the commonwealth or import into the commonwealth an assault-style firearm “ Mass. Gen. Laws ch. 140, § 131M(a).¹ These restrictions do not apply to assault-style firearms lawfully possessed within Massachusetts as of August 1, 2024, so long as the owner-in-possession is properly licensed and the firearm is properly registered. *Id.* § 131M(b). A first-time violator of the Act faces a fine of between \$1,000 and \$10,000 and/or imprisonment of between one and ten years. *Id.* § 131M(d). For a second offense, the fine range increases to between \$5,000 and \$15,000, and the prison term increases to between five and fifteen years. *Id.*

Gino Mario Recchia, III, is the sole owner of Mass Armament, LLC, a Bellingham, Massachusetts, gun store that he opened in 2019. Mass Armament sells firearms and related accessories, the majority of which come from out-of-state manufacturers, retailers, private sellers, and other industry participants. In June 2025,

1. Due to the complexity and length of the law’s definition of “assault-style firearms,” *see* Mass. Gen. Laws ch. 140, § 121, we include it in full in an appendix.

Appendix A

Mass Armament and Recchia, both individually and on behalf of Mass Armament (together, “Recchia”), filed an amended complaint under 42 U.S.C. § 1983 challenging select provisions of the Act as facially unconstitutional insofar as it prohibits certain actions involving assault-style firearms and magazines.²

As is pertinent here, Recchia alleged that provisions of the Act violate: (1) the Second Amendment, by infringing upon the right to keep and bear arms; (2) the dormant Commerce Clause, by discriminating against manufacturers of assault-style firearms and causing hardship for his business; and (3) the Equal Protection Clause of the Fourteenth Amendment, by discriminating against him with respect to his right to possess firearms and to earn a living as compared to residents of other States.³

2. As best we can tell, Recchia’s challenge centered on two provisions of the Act, §§ 121 and 131M(a). *See* Mass. Gen. Laws ch. 140, §§ 121, 131M(a). Section 121 defines, inter alia, assault-style firearms. *Id.* § 121. Section 131M(a) precludes persons from “possess[ing], own[ing], offer[ing] for sale, sell[ing] or otherwise transfer[ing] in the commonwealth or import into the commonwealth an assault-style firearm, or a large capacity feeding device.” *Id.* § 131M(a).

3. In his reply brief, Recchia asserts that “this case involves more of an as-applied challenge than a facial challenge” because he is challenging only certain provisions of the Act. As there was no mention of an as-applied challenge in Recchia’s opening brief, this argument is waived. *See Sparkle Hill, Inc. v. Interstate Mat Corp.*, 788 F.3d 25, 29 (1st Cir. 2015) (stating that arguments not raised in a party’s opening brief are waived).

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On the state defendants’ motion, the district court dismissed Recchia’s claims pursuant to Federal Rule of Civil Procedure 12(b)(6). The court ruled that Recchia’s Second Amendment claim was foreclosed by this Court’s decision in *Capen v. Campbell*, 134 F.4th 660 (1st Cir. 2025), which affirmed the denial of a motion for a preliminary injunction seeking to block an earlier version of the Act as facially violative of the Second Amendment. *See id.* at 662-63. The court also rejected Recchia’s dormant Commerce Clause challenge for failure to adequately allege that the Act discriminated against, or imposed a substantial burden on, interstate commerce. Finally, the court concluded that Recchia had failed to state a claim under the Equal Protection Clause of the Fourteenth Amendment. While noting that Recchia’s equal protection claim appeared to be “subsumed in the Second Amendment inquiry,” (quoting *Pena v. Lindley*, 898 F.3d, 969, 986 (9th Cir. 2018)), the court in any event held that Recchia had failed to allege that the Act treats any similarly situated person differently or prevented Recchia from practicing his profession.

This appeal followed.

II.

We review de novo the dismissal of a complaint for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *Mulero-Carrillo v. Román-Hernández*, 790 F.3d 99, 104 (1st Cir. 2015). In so doing, “we assume the truth of all well-pleaded facts and indulge all reasonable inferences that fit the plaintiff[s] stated

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theory of liability.” *Id.* (alteration in original) (quoting *In re Colonial Mortg. Bankers Corp.*, 324 F.3d 12, 15 (1st Cir. 2003)). A plaintiff will survive a motion to dismiss a federal constitutional claim “only if [the] pleadings plausibly establish” a constitutional violation. *Id.* at 105. Also, we may affirm an order dismissing a complaint on any ground that is apparent from the record. *See Newman v. Lehman Bros. Holdings, Inc.*, 901 F.3d 19, 25 (1st Cir. 2018).

A.

Recchia’s principal contention is that the challenged provisions of the Act violate the right to keep and bear arms under the Second Amendment.⁴ This Court recently addressed this question in *Capen*, 134 F.4th 600. As we explain, under “law of the circuit” doctrine, we are bound by this decision. *See United States v. Robertson*, 162 F.4th 209, 249-50 (1st Cir. 2025) (holding that “new panels are ‘bound by prior panel decisions closely on point’” (quoting *United States v. Barbosa*, 896 F.3d 60, 74 (1st Cir. 2018))).

4. On appeal, Recchia specifically challenges the Act’s restrictions on the sale and purchase of semiautomatic weapons, in particular the AR-15. Recchia provides no developed argument as to any other aspect of the Act and we limit our discussion accordingly. In his reply brief, Recchia passingly suggests that the Act’s regulation of magazines is also unconstitutional. *See* Mass. Gen. Laws ch. 140, § 131M(a) (prohibiting persons from possessing, owning, offering for sale, selling, or otherwise transferring a “large capacity feeding device,” which constitutes a type of magazine). We do not consider this unpreserved argument. *See Sparkle Hill*, 788 F.3d at 29; *United States v. Zannino*, 895 F.2d 1, 17 (1st Cir. 1990) (stating that insufficiently developed arguments are waived).

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In *Capen*, we affirmed the denial of a motion for a preliminary injunction seeking to prevent Massachusetts from enforcing a statutory *predecessor* of the Act on Second Amendment grounds. *See* 134 F.4th at 662-63. In considering the predecessor law’s constitutionality under the Second Amendment, we looked to whether the law was “consistent with the Nation’s historical tradition of firearm regulation.” *Id.* at 675 (quoting *N.Y. State Rifle & Pistol Ass’n. v. Bruen*, 597 U.S. 1, 24, 142 S. Ct. 2111, 213 L. Ed. 2d 387 (2022)). Specifically, we considered (1) how the predecessor law’s burden on the right of armed self-defense compared with the burden imposed by similar historical weapons regulations, and (2) whether the justification for the predecessor law was analogous to the justification for earlier weapon regulations.⁵ *See id.* at 669.

5. There is an exception to “law of the circuit” doctrine that “arises when ‘[a]n existing panel decision [is] undermined by controlling authority, subsequently announced, such as an opinion of the Supreme Court.’” *United States v. Holloway*, 630 F.3d 252, 258 (1st Cir. 2011). No Supreme Court precedent published since *Capen* was decided upsets the analytical framework we applied in *Capen*. *See United States v. Hemani*, 146 S. Ct. 1677, 1685-86, 225 L. Ed. 2d 314 (2026) (explaining that “the government . . . bears the burden of showing its regulatory efforts are ‘consistent with the Nation’s historical tradition of firearm regulation’” by looking to whether “a contemporary law mirrors a well-established historical analogue in purpose and operation” (quoting *Bruen*, 597 U.S. at 24)); *Wolford v. Lopez*, 609 U.S. ___, ___ S. Ct. ___, 225 L. Ed. 2d 494, 2026 WL 1825723, at *10 (U.S. 2026) (“At this second step, the inquiry mandated by *Heller* and *Bruen* turns to an exploration of the historical understanding of the scope of the right the Constitution codified.”).

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As for the first consideration, we “gauge[d] how [the predecessor law] might burden the right of armed self-defense,” *Capen*, 134 F.4th at 669 (quoting *Ocean State Tactical, LLC v. Rhode Island*, 95 F.4th 38, 45 (1st Cir. 2024)), and then compared that burden “to the burdens imposed by historical regulations,” *id.* at 670. We concluded “that the Massachusetts [b]an’s AR-15 restriction d[id] not impose a heavy burden on civilian self-defense.” *Id.* at 669. We then compared that burden to the burden arising from historical restrictions on Bowie knives, sawed-off shotguns, and machine guns, concluding that it was “reasonably clear that our historical tradition of regulating arms used for self-defense has tolerated’ burdens similar to those posed by” the law’s ban on assault weapons. *Id.* at 671 (quoting *Ocean State Tactical*, 95 F.4th at 46).

As for the second consideration, we concluded that the justification for the ban was analogous to justifications that have “underpinned a tradition of weapon regulation throughout American history.” *Capen*, 134 F.4th at 672. We noted that when a permanent enactment of the ban was being signed in 2004, then-Governor Mitt Romney stated that the ban was justified because assault weapons are “instruments of destruction with the sole purpose of hunting down and killing people” and that a corresponding press release stated the ban “will help keep the streets and neighborhoods of Massachusetts safe.” *Id.* at 671. We found that the ban “reflect[ed] a common concern regarding ‘the State’s responsibility to protect the public from the danger caused by weapons that create a particular public safety threat.’” *Id.* at 672. And we concluded that similar

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justifications were employed as a basis for prohibiting sawed-off shotguns and Bowie knives. *Id.* (noting that bans on sawed-off shotguns were spurred by the popularity of the gun “with the mass shooters of their day” and that bans on Bowie knives were spurred by “growing societal concern about violent crime” (quoting *Ocean State Tactical*, 95 F.4th at 47, 48)).

Capen thus concluded that the Massachusetts ban, as it applies to assault-style weapons such as the AR-15, was “consistent with the Nation’s historical tradition of firearm regulation.” 134 F.4th at 675 (quoting *Bruen*, 597 U.S. at 24).

Here, Recchia has presented no persuasive argument for why this analysis should not control our assessment of the constitutionality of the Act’s challenged provisions under the Second Amendment. Critically, he does not provide any additional historical arguments, makes no attempt to distinguish the Act from the predecessor law analyzed in *Capen*, and, in fact, concedes that *Capen* “probably forecloses relief.” Recchia nonetheless makes several arguments for why the challenged provisions of the Act are unconstitutional; those that are preserved are foreclosed by Supreme Court or circuit precedent.

Recchia first argues that the Second Amendment guarantees an individual right to possess weapons equivalent to those carried by the modern-day soldier. The argument runs as follows: The Second Amendment protects the right to keep and bear firearms for self-defense, which includes the right of individuals to keep and

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bear arms for protection against government tyranny. In Recchia's view, it necessarily follows that to resist tyranny through the possession of arms, "the Second Amendment has to encompass arms" roughly equal to those carried by United States military soldiers. Here, the challenged provisions of the Act bar access to the AR-15, which Recchia asserts is the "civilian equivalent" of the M-16, the standard-issue rifle for the United States military. In so doing, Recchia argues that these provisions restrict the keeping and bearing of arms that are necessary to resist government tyranny and accordingly, are unconstitutional on their face.

In *District of Columbia v. Heller*, the Supreme Court rejected this argument. *See* 554 U.S. 570, 598, 627-28, 128 S. Ct. 2783, 171 L. Ed. 2d 637 (2008). There, the Court acknowledged that the Second Amendment's prefatory clause -- "A well regulated Militia, being necessary to the security of a free State . . .," U.S. Const. amend. II -- was drafted in part as "a safeguard against tyranny." *Id.* at 600; *see also id.* at 597-98 (explaining that a "well-regulated militia" was deemed "necessary to the security of a free State" because "able-bodied men . . . trained in arms and organized . . . are better able to resist tyranny"). In so concluding, the Court also acknowledged -- like Recchia -- that the prefatory clause sits in some tension with "the historical tradition of prohibiting the carrying of 'dangerous and unusual weapons.'" *Id.* at 626-27. As the Court put it: "It may be objected that if weapons that are most useful in military service -- M-16 rifles and the like -- may be banned, then the Second Amendment right is completely detached from the prefatory clause." *Id.* at

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627. It nonetheless concluded that “the fact that modern developments have limited the degree of fit between the prefatory clause and the protected right cannot change our interpretation of the right.” *Id.* at 627-28. In so doing, *Heller* rejected any notion that the Second Amendment guarantees an individual right to possess weapons equivalent to those carried by the modern soldier.

Recchia separately rehashes several arguments we addressed in *Capen*. He first contends that mass shootings are not a valid justification for restricting access to select firearms because there are more reasonable approaches to addressing the problem. He also claims that the district court, “in following the reasoning of [*Capen*] . . . engaged in precisely the sort of ends-justifies-the-means reasoning that” the Supreme Court prohibited in *Bruen*. And finally, he argues that the “proscribed firearms” fall within the ambit of the Second Amendment because they are “in common use,” as evidenced by the fact that they are “legally owned by tens of millions of law-abiding Americans.”

Recchia’s latter two arguments were first introduced in his reply brief and are thus waived. *See Sparkle Hill, Inc. v. Interstate Mat Corp.*, 788 F.3d 25, 29 (1st Cir. 2015). As for Recchia’s first argument, it was rejected in *Capen*, which, as a panel, we are bound to follow. *See Capen*, 134 F.4th at 676 (noting that “newly constituted panels in a multi-panel circuit are bound by prior panel decisions closely on point” (quoting *United States v. Rodriguez*, 527 F.3d 221, 224 (1st Cir. 2008))).

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In sum, Recchia has presented a narrow claim for declaring the Massachusetts law facially invalid that cannot succeed given *Capen*. We, of course, do not consider other potential arguments against the law that Recchia has not raised. See *In re Fin. Oversight & Mgmt. Bd. for Puerto Rico*, 948 F.3d 457, 476 n. 18 (1st Cir. 2020) (“We do not decide an argument not presented to us.”). Accordingly, we affirm the district court’s rejection of Recchia’s facial challenge as a faithful application of circuit precedent.⁶

B.

Recchia next contends that the challenged provisions of the Act violate the dormant Commerce Clause. The Constitution grants Congress the power to regulate interstate commerce. U.S. Const. art. I, § 8, cl. 3. “While the Commerce Clause’s text provides only an affirmative grant of power,” it has long “been interpreted to contain a negative aspect known as the dormant Commerce Clause.” *Walgreen Co. v. Rullan*, 405 F.3d 50, 55 (1st Cir. 2005). This negative aspect “prohibits state laws that unduly

6. We note that the Supreme Court recently granted certiorari in two consolidated cases to address whether the Second and Fourteenth Amendments guarantee the right to possess AR-15 platform and similar semiautomatic rifles. See *Viramontes v. Cook Cnty.*, No. 24-1437, 2025 U.S. App. LEXIS 13331, 2025 WL 1553896 (7th Cir. June 2, 2025), *cert. granted*, No. 25-238, ___ S. Ct. ___, 2026 U.S. LEXIS 2893, 2026 WL 1871322 (U.S. 2026); *Nat’l Ass’n for Gun Rts. v. Lamont*, 153 F.4th 213 (2d Cir. 2025), *cert. granted sub nom. Grant, et al. v. Higgins, et al.*, No. 25-566, ___ S. Ct. ___, 2026 U.S. LEXIS 2887, 2026 WL 1871312 (U.S. 2026).

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restrict interstate commerce.” *Ass’n to Preserve & Protect Loc. Livelihoods v. Sidman*, 147 F.4th 40, 55 (1st Cir. 2025) (quoting *Tenn. Wine & Spirits Retailers Ass’n v. Thomas*, 588 U.S. 504, 514, 139 S. Ct. 2449, 204 L. Ed. 2d 801 (2019)). Specifically, state laws “may not discriminate against interstate commerce” or “impose undue burdens on interstate commerce.” *Id.* at 55-56 (quoting *South Dakota v. Wayfair*, 585 U.S. 162, 173, 138 S. Ct. 2080, 201 L. Ed. 2d 403 (2018)). Recchia argues that the challenged provisions of the Act do both. We disagree.

We start with Recchia’s discrimination argument. Recchia contends that the law discriminates by impermissibly distinguishing between manufacturers of assault-style firearms who are not permitted to sell in Massachusetts and manufacturers of other firearms who may. As Recchia puts it, “banning some firearms and not others makes out a plain case of *discrimination* against the banned firearms.”

This is not a cognizable dormant Commerce Clause argument. “The dormant Commerce Clause exists to eradicate economic protectionism among the states.” *Am. Trucking Ass’n, Inc. v. R.I. Tpk. & Bridge Auth.*, 123 F.4th 27, 37 (1st Cir. 2024). That is, it bars “regulatory measures designed to benefit in-state economic interests by burdening out-of-state competitors.” *Nat’l Pork Producers Council v. Ross*, 598 U.S. 356, 369, 143 S. Ct. 1142, 215 L. Ed. 2d 336 (2023) (quoting *Dep’t of Revenue of Ky. v. Davis*, 553 U.S. 328, 338, 128 S. Ct. 1801, 170 L. Ed. 2d 685 (2008)). “[T]his antidiscrimination principle lies at the ‘very core’ of [the] dormant Commerce Clause

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jurisprudence.” *Id.* (quoting *Camps Newfound/Owatonna, Inc. v. Town of Harrison*, 520 U.S. 564, 581, 117 S. Ct. 1590, 137 L. Ed. 2d 852 (1997)).

Here, Recchia concedes that “this case has nothing to do with discriminating against out-of-state manufacturers in favor of in-state ones.” And absent such discrimination, there is no dormant Commerce Clause violation on interstate discrimination grounds. Rather, Massachusetts is merely exercising its sovereign authority to “exclude from its territory, or prohibit the sale therein of any articles which, in its judgment, fairly exercised, are prejudicial to’ the interests of its citizens.” *Ross*, 598 U.S. at 369 (quoting *Guy v. Baltimore*, 100 U.S. 434, 443, 25 L. Ed. 743, 1 Ky. L. Rptr. 205 (1880)).⁷

Recchia separately argues that, even if the challenged provisions of the Act do not facially discriminate against interstate commerce, he has sufficiently pleaded that the challenged provisions unduly burden interstate commerce. In *Pike v. Bruce Church*, the Supreme Court held that nondiscriminatory state laws are valid under the Commerce Clause “unless the burden [they] impose[] on such commerce is clearly excessive in relation to the

7. At a few points in his brief, Recchia intimates that the 2004 expiration of the 1994 federal assault weapons ban, *see* Pub. L. No. 103-322, §§ 110101-06, 108 Stat. 1796, 1996-2010 (1994), should be understood to preempt Massachusetts from now regulating assault-style firearms. But Recchia has cited no authority for treating the expiration of a law as affirmative preemptive legislation. In any event, the argument is undeveloped and thus waived. *See Zannino*, 895 F.2d at 17.

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putative local benefits.” 397 U.S. 137, 142, 90 S. Ct. 844, 25 L. Ed. 2d 174 (1970). When bringing a *Pike* claim, it is a “plaintiff[’s] burden -- not the defendants’ -- to show that a measure’s adverse impact on interstate commerce is ‘clearly excessive.’” *Sidman*, 147 F.4th at 65. To satisfy this burden, a plaintiff “must plead facts ‘plausibly’ suggesting a substantial harm to interstate commerce.” *Ross*, 598 U.S. at 385; *see also id.* at 393 (Sotomayor, J., concurring) (“Alleging a substantial burden on interstate commerce is a threshold requirement that plaintiffs must satisfy before courts need even engage in *Pike*’s balancing and tailoring analyses.”); *Triumph Foods, LLC v. Campbell*, 156 F.4th 29, 48 (1st Cir. 2025) (explaining that plaintiffs “must demonstrate that a challenged law imposes a ‘substantial’ or ‘significant’ burden on interstate commerce before *Pike* balancing can occur” (quoting *Flynt v. Bonta*, 131 F.4th 918, 925 (9th Cir. 2025))).

Here, Recchia alleges only that (1) his business involves “buying and selling” banned firearms through interstate commerce, with the majority of his business partners comprising entities and individuals outside of Massachusetts; (2) his “business, income, and property [are] being substantially affected”; and (3) his “business with other entities and persons” outside of Massachusetts is also “being affected.” These allegations do not plausibly show that the challenged provisions of the Act impose an undue burden on interstate commerce.

To start, costs borne by an in-state consumer or business, standing alone, are insufficient to constitute “cognizable harm under [the Supreme Court’s] dormant

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Commerce Clause precedents.” *Ross*, 598 U.S. at 386; *see also United Haulers Ass’n, Inc. v. Oneida-Herkimer Solid Waste Mgmt. Auth.*, 550 U.S. 330, 345, 127 S. Ct. 1786, 167 L. Ed. 2d 655 (2007) (explaining that where “the citizens and businesses of the [State] bear the costs of the ordinances[,] [t]here is no reason to step in and hand local businesses a victory they could not obtain through the political process”). Apart from that, in focusing almost exclusively on the burdens the law inflicts on his own business, Recchia fails to allege any facts that the challenged provisions of the Act impermissibly burden interstate commerce.

To the extent Recchia touches at all on interstate effects, it is his allegation that his business with out-of-state entities will be affected by the challenged provisions of the Act. But the fact that the Commonwealth’s regulation of a Commonwealth business imposes downstream costs on out-of-state suppliers does not, standing alone, constitute a “substantial burden” of the type identified in *Pike*. Concluding otherwise would upend the long-standing presumption that “a State may exclude from its territory, or prohibit the sale therein of any articles which, in its judgment, fairly exercised, are prejudicial to’ the interests of its citizens.” *Ross*, 598 U.S. at 369 (quoting *Guy*, 100 U.S. at 443); *id.* at 391 (noting that the “*Pike* line of cases . . . has never before” “prevent[ed] a State from regulating the sale of an ordinary consumer good within its own borders on nondiscriminatory terms”). Accordingly, we affirm the district court’s dismissal of Recchia’s dormant Commerce Clause claim.

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Finally, Recchia challenges provisions of the Act on equal protection grounds, arguing that they are unconstitutionally discriminatory because they prevent him from selling certain types of firearms that purveyors in other States can sell. Broadly speaking, the Equal Protection Clause requires States to treat similarly situated persons similarly. *See City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439, 105 S. Ct. 3249, 87 L. Ed. 2d 313 (1985). But that abstract principle “must coexist with the practical necessity that most legislation classifies . . . with resulting disadvantage to various groups or persons.” *United States v. Skrametti*, 605 U.S. 495, 509, 145 S. Ct. 1816, 222 L. Ed. 2d 136 (2025) (quoting *Romer v. Evans*, 517 U.S. 620, 631, 116 S. Ct. 1620, 134 L. Ed. 2d 855 (1996)). To reconcile this “reality of legislative classification” with the equal protection guarantee, a law that “neither burdens a fundamental right nor targets a suspect class” will be upheld “so long as it bears a rational relation to some legitimate end.” *Id.* at 510 (quoting *Romer*, 517 U.S. at 631). Courts traditionally afford legislative enactments “wide latitude” when conducting such rational-basis review. *Id.* at 510 (quoting *Cleburne*, 473 U.S. at 440).

Recchia contends that the challenged provisions of the Act violate his “constitutional right to earn a living” and to “engage in a legitimate business” by preventing him from buying and selling assault-style firearms.⁸ But

8. At points, Recchia weaves his Second Amendment claim into his equal protection claim by arguing that he is “being treated unequally from citizens of other [S]tates who can enjoy their

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“the right to ‘make a living’ is not a ‘fundamental right’ for either equal protection or substantive due process purposes.” *Medeiros v. Vincent*, 431 F.3d 25, 32 (1st Cir. 2005), *abrogated in part on other grounds by Bond v. United States*, 564 U.S. 211, 131 S. Ct. 2355, 180 L. Ed. 2d 269 (2011).⁹ Because the asserted “rights” to earn a

full Second Amendment rights.” To the extent Recchia’s equal protection claim turns on the Second Amendment, our analysis of his equal protection claim is addressed by our rejection of his Second Amendment claim. *See Pena*, 898 F.3d at 986 (considering an equal protection claim “based on the Second Amendment’s fundamental right to bear arms” to be “subsumed in the Second Amendment inquiry”).

9. The district court considered whether Recchia stated a claim under Article IV’s Privileges and Immunities Clause, U.S. Const. art. IV, § 2, cl. 1, in response to Recchia’s reference to “privileges and immunities” in his opposition to the state defendants’ motion to dismiss. The court concluded that the Clause, which guards against discrimination by a State against citizens of other States, was inapplicable. On appeal, Recchia argues that the challenged provisions of the Act violate not the Privileges and Immunities Clause of Article IV but the Privileges or Immunities Clause of the Fourteenth Amendment, U.S. Const. amend. XIV § 1. *See also Hellman v. Mass. Dep’t of Elementary & Secondary Educ.*, 171 F.4th 69, 78 n.6 (1st Cir. 2026) (noting that the Constitution contains two clauses addressing the privileges and immunities of citizenship with “distinct applications”). Specifically, Recchia now contends that the right to make a living is a fundamental right under the Fourteenth Amendment’s Privileges or Immunities Clause. While we agree with the state defendants that Recchia has not stated a claim under either clause, we note for completeness that this Court has not held that the right to make a living is fundamental under the Fourteenth Amendment’s Privileges or Immunities Clause. *Gattineri v. Town of Lynnfield*, 58 F.4th 512, 516 (1st Cir. 2023).

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living and engage in a legitimate business involve neither a fundamental right nor a suspect classification for equal protection purposes, we review the challenged provisions only for a rational basis. *See Skrmetti*, 605 U.S. at 510.

Again, Recchia’s principal contention is that the challenged provisions of the Act violate the Equal Protection Clause by barring Commonwealth dealers such as himself from selling assault-style firearms while some out-of-state sellers are not similarly prohibited. This argument is meritless. “[T]he Fourteenth Amendment does not profess to secure to all persons in the United States the benefit of the same laws and the same remedies.” *Mills v. Maine*, 118 F.3d 37, 46 (1st Cir. 1997) (quoting *Holden v. Hardy*, 169 U.S. 366, 388, 18 S. Ct. 383, 42 L. Ed. 780 (1898)). States may reach different conclusions about what types of firearms may be sold within their legislative jurisdiction without violating the equal protection guarantee. The district court therefore properly dismissed Recchia’s equal protection claim.

III.

For the reasons stated, we ***affirm*** the district court’s grant of the state defendants’ motion to dismiss.

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Mass. Gen. Laws Ann. ch. 140, § 121 defines an “assault-style firearm” as follows:

- a) a semiautomatic, centerfire rifle with the capacity to accept a detachable feeding device and includes at least 2 of the following features: (i) a folding or telescopic stock; (ii) a thumbhole stock or pistol grip; (iii) a forward grip or second handgrip or protruding grip that can be held by the non-trigger hand; (iv) a threaded barrel designed to accommodate a flash suppressor or muzzle break or similar feature; or (v) a shroud that encircles either all or part of the barrel designed to shield the bearer’s hand from heat, excluding a slide that encloses the barrel.
- b) a semiautomatic pistol with the capacity to accept a detachable feeding device and includes at least 2 of the following features: (i) the capacity to accept a feeding device that attaches to the pistol outside of the pistol grip; (ii) a second handgrip or a protruding grip that can be held by the non-trigger hand; (iii) a threaded barrel capable of accepting a flash suppressor, forward handgrip or silencer; or (iv) a shroud that encircles either all or part of the barrel designed to shield the bearer’s hand from heat, excluding a slide that encloses the barrel.
- c) a semiautomatic shotgun that includes at least 2 of the following features: (i) a folding or telescopic stock; (ii) a thumbhole stock or pistol grip; (iii) a protruding

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grip for the non-trigger hand; or (iv) the capacity to accept a detachable feeding device.

- d) Any firearm listed on the assault-style firearm roster pursuant to section 128A.
- e) Any of the following firearms, or copies or duplicates of these firearms, of any caliber, identified as: (i) Avtomat Kalashnikov, or AK, all models; (ii) Action Arms Israeli Military Industries UZI and Galil; (iii) Beretta AR70 (SC-70); (iv) Colt AR-15; (v) Fabrique National FN/FAL, FN/LAR and FNC; (vi) SWD M-10, M-11, M-11/9 and M-12; (vii) Steyr AUG; (viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and (ix) revolving cylinder shotguns including, but not limited to, the Street Sweeper and Striker 12[.]
- f) a copy or duplicate of any firearm meeting the standards of or enumerated in clauses (d) and (e); provided, that for the purposes of this subsection, “copy or duplicate” shall mean a firearm: (A) that was manufactured or subsequently configured with an ability to accept a detachable magazine; and (B) (i) that has internal functional components that are substantially similar in construction and configuration to those of an enumerated firearm in clauses (d) and (e); or (ii) that has a receiver that is the same as or interchangeable with the receiver of an enumerated firearm in said clauses (d) and (e); provided further, that the firearm shall not be considered a copy or duplicate of a firearm identified in clauses (d) and (e) if sold, owned and registered prior to July 20, 2016[.]

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- g) “Assault-style firearm” shall not include any: (i) firearm that is operated by manual bolt, pump, lever or slide action; (ii) firearm that has been rendered permanently inoperable or otherwise rendered permanently unable to be designated as a semiautomatic assault-style firearm; (iii) firearm that is an antique or relic, theatrical prop or other firearm that is not capable of firing a projectile and which is not intended for use as a functional firearm and cannot be readily modified through a combination of available parts into an assault-style firearm; (iv) any of the firearms, or replicas or duplicates of such firearms, specified in appendix A to 18 U.S.C. section 922 as appearing in such appendix on September 13, 1994, as such firearms were manufactured on October 1, 1993; or (v) semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable feeding device.

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**APPENDIX B — MEMORANDUM AND ORDER
OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS,
FILED AUGUST 5, 2025**

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 24-12560-RGS

GINO MARIO RECCHIA, III, INDIVIDUALLY AND
AS OWNER OF MASS ARMAMENT, LLC, INC.,
AND MASS ARMAMENT, LLC, INC.,

v.

ANDREA JOY CAMPBELL, IN HER OFFICIAL
CAPACITY AS ATTORNEY GENERAL OF THE
COMMONWEALTH OF MASSACHUSETTS,
AND TERRENCE M. REIDY, IN HIS OFFICIAL
CAPACITY AS SECRETARY OF THE EXECUTIVE
OFFICE OF PUBLIC SAFETY AND SECURITY OF
THE COMMONWEALTH OF MASSACHUSETTS.

MEMORANDUM AND ORDER ON MOTION TO
DISMISS

August 5, 2025

STEARNS, D.J.

Plaintiff Gino Mario Recchia, III filed this putative class action against defendants Andrea Joy Campbell, in her official capacity as Attorney General of the Commonwealth of Massachusetts, and Terrence M. Reidy,

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in his official capacity as Secretary of the Executive Office of Public Safety and Security of the Commonwealth of Massachusetts. Recchia challenges the provisions of the 2024 Act Modernizing Firearm Laws that ban the importation and sale of large capacity firearms (assault-style weapons) and large capacity feeding devices. *See* Mass. Gen. Laws ch. 140, § 131M(a). Defendants move to dismiss the First Amended Complaint (FAC) pursuant to Fed. R. Civ. P. 12(b)(6). For the following reasons, the court will allow the motion.

BACKGROUND

On July 25, 2024, the Massachusetts Legislature enacted H-4885, “An Act Modernizing Firearm Laws,” which Governor Maura Healey promptly signed into law.¹ The Act modified or added the definitions of “assault-style firearm,” “large capacity firearm,” and “large capacity feeding device,” among others, and banned the import and sale of large capacity firearms and accessories (with various grandfathering provisions for gun owners and collectors in lawful possession of assault weapons prior to the passage of the Act). *See* Mass. Gen. Laws ch. 140, § 121

Plaintiff Recchia is a Massachusetts resident and sole owner of a Massachusetts gun store, Mass Armament, LLC (Mass Armament) (together, Recchia or plaintiff). *See* FAC (Dkt. # 26) ¶¶ 14-15. Recchia opened Mass Armament for business in 2019 and derives his livelihood from its sales. *Id.* ¶¶ 34-35. Mass Armament offered customers

1. The Act took effect on October 2, 2024, after the Governor issued an executive order inserting an emergency declaration accelerating the Act’s effective date.

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“new and used firearms of many types, including many of the items banned by the Act; that is, assault-style rifles, large capacity magazines and feeding devices,” as well as ammunition and firearm accouterments. *Id.* ¶ 37. Over half of Mass Armament’s sales consisted of firearms and accessories now banned by the Act, while the bulk of its inventory was purchased from out-of-state manufactures, retailers, and private sellers. *Id.* ¶¶ 38-40.

In his initial Complaint (filed on October 4, 2024), Recchia named Governor Healey, in her official, as well as individual, capacity as the sole defendant. *See* Dkt. # 1. The original Complaint alleged violations of the dormant Commerce Clause (Count I), the Second Amendment (Count II), and the Equal Protection Clause (Count III). *See id.* ¶¶ 37-62. Following the court’s April 17, 2025 hearing on the Governor’s motion to dismiss the Complaint, the court, “with the explicit or tacit consent of the parties,” dismissed the individual-capacity claims against Governor Healey with prejudice and dismissed the dormant Commerce Clause and Equal Protection Clause claims without prejudice. *See* Dkt. # 19. The court also granted Recchia leave to amend the Complaint. *See id.* That same day, following the hearing, the First Circuit issued its decision in *Capen v. Campbell*, 134 F.4th 660 (1st Cir. 2025), affirming another district court’s denial of a preliminary injunction in a Second Amendment challenge to the prohibition of the sale and possession of assault weapons and large-capacity magazines, as appearing in a previous version of the General Laws, ch. 140, § 131M.²

2. The 2024 Act amended § 131M to extend the ban to the import of assault-style weapons and large capacity firearms. The balance of the statute was left unchanged.

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On June 16, 2025, Recchia filed a First Amended Complaint, substituting as defendants Attorney General Campbell in her official capacity and Secretary Reidy in his official capacity. *See* FAC at 1. The Amended Complaint sets out essentially the same claims as the initial Complaint: violations of the dormant Commerce Clause (as well as the Supremacy Clause) (Count I); the Second Amendment (Count II); and the Equal Protection Clause of the Fourteenth Amendment (Count III). Recchia seeks a declaratory judgment that the Act is unconstitutional, together with a permanent injunction enjoining defendants from enforcing the provisions of the Act and its restrictions on the importation, purchase, possession, transfer, and sale of assault-style firearms and large capacity feeding devices (as well as reasonable attorney’s fees and costs). *See* FAC at 12.

LEGAL STANDARD

To survive a motion to dismiss under Rule 12(b)(6), a complaint “must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009), quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007). Two basic principles guide the court’s analysis. “First, the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions.” *Iqbal*, 556 U.S. at 678. “Second, only a complaint that states a plausible claim for relief survives a motion to dismiss.” *Id.* at 679. A claim is facially plausible if its factual content “allows the court to draw the reasonable

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inference that the defendant is liable for the misconduct alleged.” *Id.* at 678. If the allegations in the complaint are “too meager, vague, or conclusory to remove the possibility of relief from the realm of mere conjecture,” the complaint will be dismissed. *SEC v. Tambone*, 597 F.3d 436, 442 (1st Cir. 2010) (en banc).

DISCUSSION**Second Amendment Claim (Count II)**

Recchia concedes in his opposition to the motion to dismiss that “the Second Amendment issue may be considered moot at this time because of the First Circuit’s decision in *Capen*.” See Dkt. # 30 at 2. But he contends that he respectfully disagrees with *Capen*, explaining that when the Second Amendment was ratified, the American citizen soldier was equipped with a rifle equal to that of the best contemporary army in the world (presumably the British army), and that should still be the case today. See Dkt. # 30 at 6.

The Second Amendment 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.” U.S. Const. amend. II. “[L]ike most rights, the right secured by the Second Amendment is not unlimited.” *Capen*, 134 F.4th at 665, quoting *District of Columbia v. Heller*, 554 U.S. 570, 626, 128 S. Ct. 2783, 171 L. Ed. 2d 637 (2008). “One such limitation is a ‘historical tradition of prohibiting the carrying of dangerous and unusual weapons’ that were not ‘in common use’ at the

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time the Second Amendment was drafted.” *Capen*, 134 F.4th at 665, quoting *Heller*, 554 U.S. at 627. The Supreme Court has established a two-part test that courts are to use in assessing Second Amendment claims. “Under [this] approach, we first consider whether ‘the Second Amendment’s plain text covers’” the conduct at issue. *Ocean State Tactical, LLC v. Rhode Island*, 95 F.4th 38, 43 (1st Cir. 2024), quoting *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 17, 142 S. Ct. 2111, 213 L. Ed. 2d 387 (2022). “If it does, we then consider whether” a prohibition, arguably trenching upon the Second Amendment, “is ‘consistent with this Nation’s historical tradition of firearm regulation’ and thus permissible under the Second Amendment.” *Id.*, quoting *Bruen*, 597 U.S. at 17.

The court agrees with the parties that *Capen* forecloses the Second Amendment claim. In *Capen*, the First Circuit held that the Massachusetts ban on assault weapons and large capacity feeding devices was “consistent with this Nation’s historical tradition of firearm regulation,” and imposed a *de minimis* burden on the right to self-defense (because civilian self-defense “rarely - if ever - calls for the rapid and uninterrupted discharge of many shots, much less more than ten”). *Capen*, 134 F.4th at 675-676. As the First Circuit observed, the ban was enacted in response to “unprecedented societal concern” over mass shootings, and given the ban’s focus on exotic modern weaponry, did not offend the Second Amendment. *Id.* at 676; *see also Ocean State Tactical*, 95 F.4th at 43-45 (upholding the Rhode Island legislature’s ban on large capacity magazines). As Recchia is unable to identify any meaningful distinction

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between *Capen*, *Ocean State Tactical*, and the relevant 2024 portions of the Massachusetts Act, the court will dismiss Count II.³

Dormant Commerce Clause Claim (Count I)

Recchia next alleges that Massachusetts, through the importation and exportation prohibitions of the Act, has “estopped the manufacturers and local Federal firearms dealers [] from conducting business in Massachusetts,” in violation of the Commerce Clause. FAC ¶ 58; *see* Dkt. # 30 at 8.

The Commerce Clause empowers Congress “[t]o regulate commerce . . . among the several states.” U.S. Const. art. I, § 8, cl. 3. The Supreme Court “has also read ‘a further, negative command’ into the Commerce Clause.” *Am. Trucking Ass’n, Inc. v. Rhode Island Tpk. & Bridge Auth.*, 123 F.4th 27, 35 (1st Cir. 2024), quoting *Oklahoma Tax Comm’n v. Jefferson Lines, Inc.*, 514 U.S. 175, 179, 115 S. Ct. 1331, 131 L. Ed. 2d 261 (1995). Under the “dormant” Commerce Clause, states may not pass laws that “discriminate[] against or unduly burden[] interstate commerce.” *Am. Trucking Ass’n, Inc.*, 123 F.4th at 35, quoting *Gen. Motors Corp. v. Tracy*, 519 U.S. 278, 287, 117 S. Ct. 811, 136 L. Ed. 2d 761 (1997).

3. Additionally, to the extent that Recchia grounds his Second Amendment claim on an alleged “right” to sell firearms, the Second Amendment does not confer a “freestanding right” to sell firearms that is “wholly detached from any customer’s ability to acquire firearms.” *United States v. Vlha*, 142 F.4th 1194, 1198 (9th Cir. 2025), quoting *Teixeira v. Cnty. of Alameda*, 873 F.3d 670, 682 (9th Cir. 2017) (en banc).

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Dormant Commerce Clause claims are analyzed under a two-tiered approach. *See Brown-Forman Distillers Corp. v. New York State Liquor Auth.*, 476 U.S. 573, 578-579, 106 S. Ct. 2080, 90 L. Ed. 2d 552 (1986). The first-tier test asks whether the state law at issue discriminates directly against interstate commerce or directly regulates interstate commerce. *See id.* at 579. If the state law does either, it violates the Commerce Clause and is “generally struck down . . . without further inquiry.” *Id.*⁴ Under the second tier, which has come to be known as the *Pike* balancing test, *see Pike v. Bruce Church, Inc.*, 397 U.S. 137, 142, 90 S. Ct. 844, 25 L. Ed. 2d 174 (1970), when “a statute has only indirect effects on interstate commerce and regulates evenhandedly, [the Court] examine[s] whether the State’s interest is legitimate and whether the burden on interstate commerce clearly exceeds the local benefits.” *Brown-Forman Distillers Corp.*, 486 U.S. at 579.

Here, Recchia’s revised dormant Commerce Clause claim is substantially identical to his essay in the original Complaint (which the court previously dismissed). *See* Dkt. # 19. Looking to the first-tier approach, Recchia’s Amended Complaint is devoid of any allegation that the Legislature enacted the Act’s restrictions on the import and sale of assault-style weapons and large

4. A state discriminates against interstate commerce “when it enacts ‘economic protectionism’ by imposing ‘regulatory measures designed to benefit in-state economic interests by burdening out-of-state competitors.’” *Am. Trucking Ass’n, Inc.*, 123 F.4th at 35, quoting *New Energy Co. of Ind. v. Limbach*, 486 U.S. 269, 273, 108 S. Ct. 1803, 100 L. Ed. 2d 302 (1988).

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capacity devices with a discriminatory purpose. Recchia argues that the Act is discriminatory because it “favors manufacturers of some weapons over the manufacturers of the banned weapons, thus discriminating against the latter,” and that the “Act bann[ing] some firearms and not all others amounts to discrimination against the banned weapon[s],” *see* Dkt. # 12 at 12. However, the Act contains no “differential treatment of in-state and out-of-state economic interests that benefits the former and burdens the latter.” *See Granholm v. Heald*, 544 U.S. 460, 472, 125 S. Ct. 1885, 161 L. Ed. 2d 796 (2005). By its terms, the Act’s restrictions apply to all regulated weapons, regardless of where they are manufactured.⁵

Turning to the second tier, Recchia has failed to plausibly allege that the Act imposes a significant burden on interstate commerce. *See Pike*, 397 U.S. at 142. Recchia alleges that his business, income, and property values are substantially affected by the assault weapons ban. *See* FAC ¶¶ 46, 72-74. However, he cites to no authority for the proposition that any specific quantum of economic loss born by a subset of retailers is sufficient to demonstrate a substantial burden on the broad stream of interstate commerce. What Recchia has to say as to the Act’s effect on other federal firearms dealers in the Commonwealth is speculative and presumes that all firearm retailers in Massachusetts depend on the sale of assault weapons and accessories as their major source of income. *See Nat’l Pork Producers Council v. Ross*, 598 U.S. 356, 387, 143 S. Ct.

5. Recchia is not a firearms manufacturer and, therefore, would not appear to have standing to challenge the Act based on its impact on out-of-state manufacturers.

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1142, 215 L. Ed. 2d 336 (2023) (plurality opinion) (noting that alleged harm that is “nothing more than a speculative possibility” does not amount to a “substantial harm” to interstate commerce). An undue impact on the stream of interstate commerce is gauged by its effect on the public as a whole and not by the disadvantageous effects felt by a small subset of participants in its ebb and flow. *Cf. United Haulers Ass’n, Inc. v. Oneida-Herkimer Solid Waste Mgmt. Auth.*, 550 U.S. 330, 345, 127 S. Ct. 1786, 167 L. Ed. 2d 655 (2007) (dormant Commerce Clause not offended by higher prices “likely to fall upon the very people who voted for the [challenged] la[w]”). Nor does Recchia persuasively allege that the Act’s burdens on interstate commerce are “clearly excessive in relation to the putative local benefits,” which include the Commonwealth’s manifest interest in protecting Massachusetts citizens from the “growing and real threat” of mass shootings and gun violence. *Pike*, 397 U.S. at 142; *see* Dkt. # 29 at 18, citing *Capen*, 134 F.4th at 673. Accordingly, the court will dismiss Count I.⁶

6. Under this same count, Recchia appears to invoke the Supremacy Clause to argue that Congress authorized all citizens to possess the Act’s banned weapons because it did not renew the federal assault weapons ban of 1994, Title XI of P.L. 103-322 (September 13, 1994). *See* FAC ¶¶ 48-53; Dkt. # 12 at 9-14. Recchia contends that the Act’s restrictions conflict with Congress’s authorization and, therefore, Massachusetts is usurping Congress’s power to regulate interstate commerce. *See* Dkt. # 30 at 8. Besides pointing to no authority in support of this argument, Recchia’s Supremacy Clause argument is incompatible with his dormant Commerce Clause claim because “[d]ormant Commerce Clause restrictions apply only when Congress has not exercised its Commerce Clause power to regulate the matter at issue.” *Tennessee Wine & Spirits Retailers Ass’n v. Thomas*, 588 U.S. 504, 524, 139 S. Ct. 2449, 204 L. Ed. 2d 801 (2019)

*Appendix B***Equal Protection Claim (Count III)**

Recchia alleges that, as a United States citizen domiciled in Massachusetts, he is being subject to inferior treatment than that received by many other citizens who reside in states where they are permitted to possess the banned firearms and “earn a living [by selling them] in a legitimate business.” *See* FAC ¶ 68; Dkt. # 30 at 10. Recchia argues this amounts to a violation of the Equal Protection Clause under the Fourteenth Amendment.⁷ *See* Dkt. # 30 at 12.

First, “[t]o the extent that the [e]qual [p]rotection challenge is based on the Second Amendment’s fundamental right to bear arms and the disparate treatment of groups in exercising that right . . . that challenge is subsumed in the Second Amendment inquiry.” *Pena v. Lindley*, 898 F.3d, 969, 986 (9th Cir. 2018); *see Teixeira v. Cnty. of Alameda*, 822 F.3d 1047, 1052 (9th Cir. 2016) (affirming dismissal of an equal protection challenge based on infringement of the right to bear arms because “the equal protection challenge

(citations omitted).

7. Recchia asserts claims under both the Fifth and Fourteenth Amendments’ equal protection guarantees. *See* FAC ¶¶ 64, 70. Fifth Amendment equal protection claims are evaluated under the same standards as equal protection claims under the Fourteenth Amendment. *See Perrier-Bilbo v. United States*, 954 F.3d 413, 432 n.14 (1st Cir. 2020). However, the Fifth Amendment Due Process Clause applies “only to actions of the federal government - not to those of state or local governments.” *Martinez-Rivera v. Sanchez Ramos*, 498 F.3d 3, 8 (1st Cir. 2007). The court, accordingly, will end any discussion of the Fifth Amendment claim here.

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[was] ‘no more than a [Second] Amendment claim dressed in equal protection clothing,’” quoting *Orin v. Barclay*, 272 F.3d 1207, 1213 n.3 (9th Cir. 2001)), on *reh’g en banc*, 873 F.3d 670, 676 n.7 (9th Cir. 2017) (affirming dismissal of the equal protection claim “for the reasons given in the panel opinion”); *cf. Albright v. Oliver*, 510 U.S. 266, 273, 114 S. Ct. 807, 127 L. Ed. 2d 114 (1994) (“Where a particular Amendment provides an explicit textual source of constitutional protection against a particular sort of government behavior, that Amendment, not the more generalized notion of substantive due process, must be the guide for analyzing these claims.”) (citation and internal quotation marks omitted).

Second, even if the court were to entertain the equal protection claim, equal protection means that “all persons similarly situated should be treated alike.” *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439, 105 S. Ct. 3249, 87 L. Ed. 2d 313 (1985). The Equal Protection Clause provides that no State shall “deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1. “Plaintiffs claiming an equal protection violation must first identify and relate *specific instances* where persons *situated similarly in all relevant respects* were treated differently.” *Buchanan v. Maine*, 469 F.3d 158, 178 (1st Cir. 2006) (emphasis in original) (citation and internal quotation marks omitted); *see also McCoy v. Town of Pittsfield*, 59 F.4th 497, 508 (1st Cir. 2023) (explaining that an equal protection claim sounding in a fundamental rights theory typically requires an appropriate comparator). Here, Recchia does not allege the existence of an individual who was “similarly

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situated [to him] in all relevant respects” within the state’s jurisdiction but was treated more favorably. Nor does the Act prevent Recchia from engaging in his profession as a gun dealer.⁸ Thus, the court will dismiss Count III.

ORDER

For the foregoing reasons, the FAC is dismissed with prejudice. The Clerk will enter judgment for Campbell and Reidy and close the case.

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES
DISTRICT JUDGE

8. In his opposition to the motion to dismiss, Recchia also alleges that “one of the privileges and immunities” of citizenship that he has been deprived of is the right to possess and carry the banned firearms and, moreover, that he is entitled to a privileged right to earn a “living in a legitimate business” related to selling the banned firearms. *See* Dkt. # 30 at 11-13. Article IV, § 2, cl. 1 of the Constitution provides that “[t]he Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.” U.S. Const. art. IV, § 2, cl. 1. The Clause entitles residents of one state to enjoy the same rights as citizens of other states. *See Selevan v. New York Thruway Auth.*, 584 F.3d 82, 102 (2d Cir. 2009). Recchia misconstrues this Clause, which protects individual, “out-of-state residents from the discriminatory laws of other states and their municipalities.” *Connecticut Citizens Def. League, Inc. v. Thody*, 664 F. Supp. 3d 235, 251 (D. Conn. 2023), *aff’d*, 2024 U.S. App. LEXIS 1056, 2024 WL 177707 (2d Cir. Jan. 17, 2024). That is not the case here, as Recchia resides solely in Massachusetts.

**APPENDIX C — STATUTORY PROVISIONS
INVOLVED**

STATUTORY PROVISIONS INVOLVED

Mass. Gen. Laws ch. 140, § 131M

Section 131M. (a) No person shall possess, own, offer for sale, sell or otherwise transfer in the commonwealth or import into the commonwealth an assault-style firearm, or a large capacity feeding device.

(b) Subsection (a) shall not apply to an assault-style firearm lawfully possessed within the commonwealth on August 1, 2024, by an owner in possession of a license to carry issued under section 131 or by a holder of a license to sell under section 122; provided, that the assault-style firearm shall be registered in accordance with section 121B and serialized in accordance with section 121C.

(c) Subsection (a) shall not apply to large capacity feeding devices lawfully possessed on September 13, 1994 only if such possession is: (i) on private property owned or legally controlled by the person in possession of the large capacity feeding device; (ii) on private property that is not open to the public with the express permission of the property owner or the property owner's authorized agent;

(iii) while on the premises of a licensed firearms dealer or gunsmith for the purpose of lawful repair; (iv) at a licensed firing range or sports shooting competition venue; or (v) while traveling to and from these locations; provided, that the large capacity feeding device is stored unloaded

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and secured in a locked container in accordance with sections 131C and 131L. A person authorized under this subsection to possess a large capacity feeding device may only transfer the device to an heir or devisee, a person residing outside the commonwealth, or a licensed dealer.

(d) Whoever violates this section shall be punished, for a first offense, by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than 1 year nor more than 10 years, or by both such fine and imprisonment, and for a second offense, by a fine of not less than \$5,000 nor more than \$15,000 or by imprisonment for not less than 5 years nor more than 15 years, or by both such fine and imprisonment.

[Subsection (e) effective until August 5, 2025.]

(e) This section shall not apply to transfer or possession by: (i) a qualified law enforcement officer or a qualified retired law enforcement officer, as defined in the Law Enforcement Officers Safety Act of 2004, 18 U.S.C. sections 926B and 926C, respectively, as amended; (ii) a federal, state or local law enforcement agency; or (iii) a federally licensed manufacturer solely for sale or transfer in another state or for export.

[Subsection (e) as amended by 2025, 14, Sec. 45 effective August 5, 2025.]

(e) This section shall not apply to transfer or possession by: (i) a qualified law enforcement officer or a qualified retired law enforcement officer, as defined in the Law

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Enforcement Officers Safety Act of 2004, 18 U.S.C. sections 926B and 926C, respectively, as amended; (ii) a law enforcement officer as defined in section 1 of chapter 6E who is currently certified pursuant to section 4 of said chapter 6E;

provided, however, that to qualify for the exemption under this subsection, the certification of a law enforcement officer as defined in section 1 of chapter 6E shall not be suspended, limited, or restricted and the officer shall be permitted to perform police duties and functions involving firearms in accordance with chapter 6E and the regulations promulgated thereunder; (iii) a federal, state or local law enforcement agency; or (iv) a federally licensed manufacturer solely for sale or transfer in another state or for export.

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Mass. Gen. Laws ch. 140, § 121

(Relevant definitions; excerpts)

Section 121. As used in sections 122 to 131Y, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:—

* * *

“Assault-style firearm”, any firearm which is:

(a) a semiautomatic, centerfire rifle with the capacity to accept a detachable feeding device and includes at least 2 of the following features: (i) a folding or telescopic stock; (ii) a thumbhole stock or pistol grip; (iii) a forward grip or second handgrip or protruding grip that can be held by the non-trigger hand;

(iv) a threaded barrel designed to accommodate a flash suppressor or muzzle break or similar feature; or (v) a shroud that encircles either all or part of the barrel designed to shield the bearer’s hand from heat, excluding a slide that encloses the barrel.

(b) a semiautomatic pistol with the capacity to accept a detachable feeding device and includes at least 2 of the following features: (i) the capacity to accept a feeding device that attaches to the pistol outside of the pistol grip; (ii) a second handgrip or a protruding grip that can be held by the non-trigger hand;

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(iii) a threaded barrel capable of accepting a flash suppressor, forward handgrip or silencer; or (iv) a shroud that encircles either all or part of the barrel designed to shield the bearer's hand from heat, excluding a slide that encloses the barrel.

(c) a semiautomatic shotgun that includes at least 2 of the following features: (i) a folding or telescopic stock; (ii) a thumbhole stock or pistol grip; (iii) a protruding grip for the non-trigger hand; or (iv) the capacity to accept a detachable feeding device.

(d) Any firearm listed on the assault-style firearm roster pursuant to section 1313/4.

(e) Any of the following firearms, or copies or duplicates of these firearms, of any caliber, identified as: (i) Avtomat Kalashnikov, or AK, all models; (ii) Action Arms Israeli Military Industries UZI and Galil; (iii) Beretta AR70 (SC-70);

(iv) Colt AR-15; (v) Fabrique National FN/FAL, FN/LAR and FNC; (vi) SWD M-10, M-11, M-11/9 and M-12; (vii) Steyr AUG; (viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and (ix) revolving cylinder shotguns including, but not limited to, the Street Sweeper and Striker 12;

(f) a copy or duplicate of any firearm meeting the standards of or enumerated in clauses (d) and (e); provided, that for the purposes of this subsection, "copy or duplicate" shall mean a firearm: (A) that was manufactured or subsequently configured with an ability to accept a detachable magazine;

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and (B)(i) that has internal functional components that are substantially similar in construction and configuration to those of an enumerated firearm in clauses (d) and (e);

or (ii) that has a receiver that is the same as or interchangeable with the receiver of an enumerated firearm in said clauses (d) and (e); provided further, that the firearm shall not be considered a copy or duplicate of a firearm identified in clauses (d) and (e) if sold, owned and registered prior to July 20, 2016

(g) “Assault-style firearm” shall not include any: (i) firearm that is operated by manual bolt, pump, lever or slide action; (ii) firearm that has been rendered permanently inoperable or otherwise rendered permanently unable to be designated as a semiautomatic assault-style firearm; (iii) firearm that is an antique or relic, theatrical prop or other firearm that is not capable of firing a projectile and which is not intended for use as a functional firearm and cannot be readily modified through a combination of available parts into an assault-style firearm;

(iv) any of the firearms, or replicas or duplicates of such firearms, specified in appendix A to 18 U.S.C. section 922 as appearing in such appendix on September 13, 1994, as such firearms were manufactured on October 1, 1993; or (v) semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable feeding device.

* * *

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“Feeding device”, any magazine, belt, strip, drum or similar device that holds ammunition for a firearm, whether fixed or detachable from a firearm.

“Firearm”, a stun gun, pistol, revolver, rifle, shotgun, sawed-off shotgun, large capacity firearm, assault-style firearm and machine gun, loaded or unloaded, which is designed to or may readily be converted to expel a shot or bullet; the frame or receiver of any such firearm or the unfinished frame or receiver of any such firearm; provided, however, that “firearm” shall not include any antique firearm or permanently inoperable firearm.

* * *

“Large capacity feeding device”, (i) a fixed or detachable magazine, belt, drum, feed strip or similar device that has a capacity of, or that can be readily converted to accept, more than 10 rounds of ammunition or more than 5 shotgun shells; or (ii) any part or combination of parts from which a device can be assembled if those parts are in the possession or control of the same person;

provided, however, that “large capacity feeding device” shall not include: (a) any device that has been permanently altered so that it cannot accommodate more than 10 rounds of ammunition or more than 5 shotgun shells; (b) an attached tubular device designed to accept and capable of operating only with .22 caliber rimfire ammunition; or (c) a tubular magazine that is contained in a lever-action firearm or on a pump shotgun.

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* * *

“Rifle”, a firearm having a rifled bore with a barrel length equal to or greater than 16 inches and capable of discharging a shot or bullet for each pull of the trigger.

* * *

“Semiautomatic”, capable of utilizing a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and requiring a separate pull of the trigger to fire each cartridge.

* * *

[Asterisks indicate omitted text. Bracketed version labels are editorial, not enacted statutory language.]