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NOTICE OF DENIAL OF APPLICATION FOR FURTHER APPELLATE REVIEW, SUPREME JUDICIAL COURT FOR THE COMMONWEALTH OF MASSACHUSETTS (JULY 31, 2026)

Subject: FAR-30975 - Notice: FAR denied

From: SJC Full Court Clerk
To: bmoc54@verizon.net
Cc: –
Date: July 31, 2026 at 10:02 AM

Supreme Judicial Court for the Commonwealth of Massachusetts

Telephone

RE: Docket No. FAR-30975

AMGAD MUKHTAR & others
vs.
MAURA HEALEY & others

Middlesex Superior Court No. 2481CV02958
A.C. No. 2025-P-1201

NOTICE OF DENIAL OF APPLICATION FOR FURTHER APPELLATE REVIEW

Please take note that on July 31, 2026, the application for further appellate review was denied.

Very truly yours,
The Clerk's Office

Dated: July 31, 2026

MEMORANDUM AND ORDER, COMMONWEALTH OF MASSACHUSETTS APPEALS COURT (JUNE 5, 2026)

COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT

AMGAD MUKHTAR & Others[1]

v.

MAURA HEALEY[2] & Others[3]

No. 25-P-1201

Before: SHIN, DITKOFF & TAN, JJ.

[1] Robert Egri, Katalin Egri, Michael Bush, Edward Chisholm, Vincent Cedrone, Phillip McLaine, and Joshua Ulrich.

[2] Governor of the Commonwealth of Massachusetts, in her official and individual capacities.

[3] Andrea Joy Campbell, Attorney General of the Commonwealth of Massachusetts, in her official and individual capacities; Geoffrey D. Noble, Colonel of the Massachusetts State Police, in his official capacity; Jordan Maynard, Chair of the Massachusetts Gaming Commission, in his official and individual capacities; Terrence M. Reidy, Secretary of the Executive Office of Public Safety and Security, in his official and individual capacities; and the Massachusetts Port Authority, intervener.

MEMORANDUM AND ORDER PURSUANT TO RULE 23.0

The plaintiffs appeal from a judgment issued by a Superior Court judge dismissing their complaint alleging that numerous Massachusetts firearm licensing statutes and other laws are unconstitutional. Like the motion judge, we conclude that the plaintiffs failed to establish standing to challenge any of the laws except for the licensing fee. Further concluding that binding Supreme Judicial Court precedent forecloses the challenge to the licensing fee, we affirm.

1. Standard of review.

"We review de novo the dismissal of a complaint under either rule 12 (b) (1) or (6)." *Hladik v. LPL Fin. LLC*, 106 Mass. App. Ct. 592, 594 (2026).[4] "Where a party's challenge [to standing] is supported by affidavits or other matters outside the record, the challenge is factual and the burden falls to the nonmoving party to prove jurisdictional facts." *Id.* at 595. By contrast, where the challenge is unsupported by matters outside the complaint, the allegations of the complaint are "taken as true for purposes of resolving the complaint." *Hiles v. Episcopal Diocese of Mass.*, 437 Mass. 505, 516 n.13 (2002). Here, the defendants presented extrinsic evidence regarding only the Firearms Control Advisory Board. In reviewing whether a complaint fails to state a claim upon which relief can be granted, we invariably "accept the allegations in the complaint as true and draw 'all reasonable inferences in the plaintiff[s'] favor.'" *Allegaert v. Harbor*

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[4] Because we review the dismissal de novo, the alleged procedural irregularities in the Superior Court are immaterial.

View Hotel Owner LLC, 100 Mass. App. Ct. 483, 486 (2021), quoting *Baptiste v. Executive Office of Health & Human Servs.*, 97 Mass. App. Ct. 110, 114 (2020), *cert. denied*, 141 S. Ct. 2626 (2021).

2. Standing.

"A party has standing when it can allege an injury within the area of concern of the statute, regulatory scheme, or constitutional guarantee under which the injurious action has occurred." *Gibson v. Department of Correction*, 106 Mass. App. Ct. 201, 206 (2025), quoting *Doe No. 1 v. Secretary of Educ.*, 479 Mass. 375, 386 (2018). "Simply alleging injury alone is not sufficient and '[i]njuries that are speculative, remote, and indirect' do not confer proper standing." *Pugsley v. Police Dep't of Boston*, 472 Mass. 367, 371 (2015), quoting *Sullivan v. Chief Justice for Admin. & Mgt. of the Trial Court*, 448 Mass. 15, 21 (2006).

Here, the plaintiffs allege that they would act in various ways currently prohibited by law were it not for those laws. Each such allegation is conclusory. For example, the plaintiffs allege that they "would bear arms on the property of and in schools, colleges, and universities were it not for M.G.L. Chapter 269 § 10(j)," and that they "have each been on the property of and in schools, colleges, and universities multiple times and intend to continue doing so." Nowhere in their complaint do the plaintiffs provide any plan to act in these ways, state which institutions they intend to visit, or explain why they so desire to visit them while armed.

It is, of course, true that "when fear of criminal prosecution under an allegedly unconstitutional statute is not imaginary or wholly speculative a plaintiff need not 'first expose himself to actual arrest or prosecution

to be entitled to challenge [the] statute.'" *Babbitt v. United Farm Workers Nat'l Union*, 442 U.S. 289, 302 (1979), quoting *Steffel v. Thompson*, 415 U.S. 452, 459 (1974). Nonetheless, the plaintiffs must produce factual allegations that raise their assertion of standing beyond the speculative. The sort of boilerplate attempt to manufacture standing by ipse dixit attempted here is not permitted. As the United States Supreme Court explained, "'some day' intentions—without any description of concrete plans, or indeed even any specification of when the some day will be—do not support a finding of the 'actual or imminent' injury that our cases require." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 564 (1992). The standing analysis concerns itself with whether the plaintiffs actually face an imminent injury, not whether they can recite the magic words in their complaint. Similarly, it is hardly fair to the future plaintiff with potentially an actual need, for instance, to bring a firearm into a municipal building (for example, a municipal employee with a dangerous ex-lover) to allow the legality of this prohibition to be litigated by litigants without a concrete stake in the question to be litigated.

The case relied upon by the plaintiffs, *Susan B. Anthony List v. Driehaus*, 573 U.S. 149 (2014), is in accord. There, "[b]oth petitioners ha[d] pleaded specific statements they intend[ed] to make in future election cycles," and supported these specific statements with examples of "substantially similar activity" in the past. *Id.* at 161. Unlike the petitioners in Susan B. Anthony List, the plaintiffs here have provided no specific averments. The motion judge properly determined that they lack standing to raise any of their claims except for their challenge to the licensing fee.

3. Licensing fee.

Except for Kaitin Egri, each of the plaintiffs has a license to carry firearms and thus has been directly harmed by the $100 fee to obtain a license to carry. *See* G.L.c. 140, § 121F (o) (i). The Supreme Judicial Court has held that a licensing scheme with reasonable processing delays and fees is consistent with the Second Amendment. *See Commonwealth v. Marquis*, 495 Mass. 434, 458-459 (2025), cert. denied, 223 L. Ed. 2d 520 (2026). This is consistent with the United States Supreme Court's statement in dicta that such licensing schemes are constitutional unless "lengthy wait times in processing license applications or exorbitant fees deny ordinary citizens their right to public carry." *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 38 n.9 (2022). It is true, as the plaintiffs point out, that the Supreme Judicial Court was considering the fee imposed on nonresident applicants, but we can see no reason why that would make a constitutional difference.[5]

Finally, the plaintiffs assert that a violation of equal protection arises from the reduced or waived fees provided to certain government officials, gunsmiths, and elderly persons. They provide no argument—nor do we envision any—that there is no rational basis for these reasonable exemptions. Rather, they argue that strict scrutiny is required "whenever a fundamental

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[5] The plaintiffs also state that they are preserving the issue whether Marquis was properly decided for review by the Supreme Judicial Court, presumably on further appellate review. We acknowledge that this claim was fully raised here. We, of course, are bound to follow the law as set forth by the Supreme Judicial Court. *See Commonwealth v. Colon*, 52 Mass. App. Ct. 725, 730 n.1 (2001).

right is implicated." This is not so. Rather, "strict scrutiny applies only where State action 'significantly interfere[s] with' the fundamental right at issue,' not simply where State action involves a fundamental right (citations omitted)." *Commonwealth v. Roman*, 489 Mass. 81, 87 (2022). The plaintiffs make no argument—nor could they—that the $100 fee significantly interferes with the fundamental right to bear arms. Accordingly, the motion judge properly concluded that the plaintiffs' complaint on this point failed to state a claim upon which relief could be granted.[6]

Judgment affirmed.

By the Court
(Shin, Ditkoff & Tan, JJ.[7]),

/s/ Paul Tuttle
Clerk

Entered: June 5, 2026

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[6] The plaintiffs argue in passing that the motion judge should have granted them leave to amend their complaint. Denials of such motions are reviewed for an abuse of discretion. *See Chang v. Winklevoss*, 95 Mass. App. Ct. 202, 212 (2019). A motion to amend must attach a proposed complaint or "describe[] the proposed amendment in enough detail to meet the notice pleading requirement." *Williamson v. Barlam*, 103 Mass. App. Ct. 727, 737 (2024). *Accord Johnston v. Box*, 453 Mass. 569, 582 (2009). Here, the plaintiffs provided no description of any proposed amendments but rather asked the court to identify how they should amend their complaint. The motion judge acted within his discretion in declining this invitation.

[7] The panelists are listed in order of seniority.

**JUDGMENT AFTER RESCRIPT,
TRIAL COURT OF MASSACHUSETTS,
THE SUPERIOR COURT
(AUGUST 7, 2026)**

TRIAL COURT OF MASSACHUSETTS
THE SUPERIOR COURT

MUKHTAR, AMGAD O., et al

v.

MA GOVERNOR MAURA HEALEY,
in Her Official and Individual Capacities et al

Docket No. 2481CV02958

Before: John C. FRASER, Justice of the Superior Court.

JUDGMENT AFTER RESCRIPT

This action was appealed to the SJC or Appeals Court for the Commonwealth, the issues having been duly heard and the SJC or Appeals Court having duly issued a rescript,

It is ORDERED and ADJUDGED:

JUDGMENT/ORDER after Rescript: The original judgment (#50.0) is Affirmed.

Judge: Fraser, Hon. John C

/s/ {Illegible}
Clerk of Court/Asst. Clerk

Date of Judgment Entered: 08/07/26

JUDGMENT ON MOTION TO DISMISS, TRIAL COURT OF MASSACHUSETTS, THE SUPERIOR COURT (AUGUST 25, 2025)

TRIAL COURT OF MASSACHUSETTS
THE SUPERIOR COURT

MUKHTAR, AMGAD O., et al

v.

MA GOVERNOR MAURA HEALEY,
in Her Official and Individual Capacities et al

Docket No. 2481CV02958

Before: John C. FRASER, Justice of the Superior Court.

JUDGMENT ON MOTION TO DISMISS

JUDGMENT FOR THE FOLLOWING DEFENDANT(S)

MA Governor Maura Healey, in her Official and Individual capacities

MA Attorney General Andrea Joy Campbell, in her Official and Individual Capacity

Colonel of the MA State Police Geoffrey D. Noble, in his official capacity

MA Gaming Commission Chair Jordon Maynard, in his official and individual capacities

Massachusetts Port Authority

Secretary of Executive Office of Public Safety and Security Terrence M Reidy, in his official and individual capacities

JUDGMENT AGAINST THE FOLLOWING PLAINTIFF(S)

Mukhtar, Amgad O.

Egri, Robert

Egri, Katalin

Bush, Michael

Chisholm, Edward

Cedrone, Vincent

McLaine, Phillip

Ulrich, Joshua

Plaintiffs' claims challenging the constitutionality and validity of the following laws are DISMISSED for lack of standing:

a. G.L.c. 269, S. 10A (Silencers);

b. G.L.c. 140, S. 121,131 M(a) (threaded barrels);

c. G.L.c. 269, S. 10(b) ("Dangerous Weapons");

d. G.L.c. 140, S. 131 1/2, 131 3/4 (roster of assault-style weapons);

e. G.L.c. 140, S. 121, 121C (Serialization requirements);

f. G.L.c. 269, S. 10(j)-(k) (schools, polling places, and government-controlled buildings);

g. 205 Code Mass. Regs. S. 138.20 (gaming establishments);

h. 740 Code Mass. Regs. S. 30.04 (airports);

i. G.L.c. 269, S. 12D (Public ways);

j. G.L.c. 258E, S. 4A-4C (Harassment Prevention Orders);

k. G.L.c. 140, S. 131R-131Y (ERPOs);

l. G.L.c. 140, S. 121B (registration and reporting);

m. G.L.c. 140, S. 121F(o)-(p) (licensing); and

n. 940 Code Mass. Regs. S. 16.00 (handgun sales).

Plaintiffs' claims challenging the constitutionality and validity of G.L.c. 140, S. 121F(o) (licensing fee) are DISMISSED pursuant to Mass. R. Civ. P. 12(b)(6).

/s/ {Illegible}
Clerk of Court/Asst. Clerk

Date of Judgment Entered: 08/25/25

MEMORANDUM OF DECISION AND ORDER ON DEFENDANTS' MOTION TO DISMISS, SUPERIOR COURT, COMMONWEALTH OF MASSACHUSETTS, MIDDLESEX (AUGUST 14, 2025)

COMMONWEALTH OF MASSACHUSETTS, MIDDLESEX, SUPERIOR COURT

AMGAD MUKHTAR, and Others[1]

v.

GOVERNOR MAURA HEALEY, and Others[2]

Civil Action No. 24-02958

Before: John C. FRASER, Justice of the Superior Court.

MEMORANDUM OF DECISION AND ORDER ON DEFENDANTS' MOTION TO DISMISS

Plaintiffs, a group of pro se residents of Massachusetts, filed their complaint challenging fifteen separate Massachusetts firearm laws as unconstitutional under the Second Amendment as recently applied by the U.S. Supreme Court in *New York Rifle & Pistol*

[1] Robert Egri, Katalin Egri, Michael Bush, Edward Chisholm, Vincent Cedrone, Phillip McLaine, and Joshua Ulrich.

[2] Attorney General Andrea Joy Campbell, Col. Geoffrey D. Noble, Secretary of the Ex. Office of Pub. Health & Safety Terrence M. Reidy, and Jordan Maynard, Chair of the Mass. Gaming Commission

Ass'n, Inc. v. Bruen, 597 U.S. 1 (2022) ("*Bruen*"). The laws challenged cover a wide swath of firearm laws and regulations including, prohibitions against guns in schools and government buildings, the State's silencer ban, restrictions on obscure weapons (*e.g.*, brass knuckles, slung shots, and blackjacks), regulations governing unfair and deceptive trade practices in handgun sales, the prohibitions on firearms in gaming establishments and airports, and the $100 fee charged to firearm license applicants.

Defendants, all public officials with authority to enforce the challenged firearm laws and regulations, now move to dismiss the complaint [Paper Nos. 40 and 41]. Defendants first argue pursuant to Mass. R. Civ. P. 12(b)(1) that the complaint fails to allege facts sufficient to demonstrate that Plaintiffs have standing to bring most of their challenges. Even if Plaintiffs have standing, Defendants argue pursuant to Mass. R. Civ. P. 12(b)(6) that the challenges are "facial challenges" and that Plaintiffs cannot meet the high burden, recently restated in *United States v. Rahimi*, 602 U.S. 680 (2024), of showing that "no set of circumstances exist[] under which the [challenged law] would be valid." Finally, Defendants argue that under any circumstance, the laws challenged do not violate the Second Amendment, or any other constitutional protections.

After hearing and careful review of the submissions, Defendants' motions are ALLOWED.

BACKGROUND

The following facts are taken from the well pleaded allegations of the complaint, which the court

accepts as true. *See Curtis v. Herb Chambers I-95, Inc.*, 458 Mass. 674, 676 (2011).

Plaintiffs filed their complaint on November 11, 2024. They filed an Amended Complaint on February 24, 2025, that kept their original claims and added challenges to even more firearms laws. Plaintiffs assert their challenges under the Second Amendment, the Fourth Amendment, the Equal Protection Clause of the Fourteenth Amendment, Articles 14 and 17 of the Declaration of Rights, and arts. 30 and 106 of the Massachusetts Constitution.

Plaintiffs are all Massachusetts residents who own firearms, ammunition, and have a license to carry firearms, with the exception of one plaintiff, Katalin Egri, who neither owns firearms nor is licensed to own them. None of the Plaintiffs have committed violent crimes, and they do not challenge the laws requiring criminal background checks to purchase a firearm. Plaintiffs challenge the following firearms laws and regulations.

A. Massachusetts's Silencer Prohibition (G. L. c. 269, § 10A)

Massachusetts has prohibited firearm silencers since at least 1989. The current statute makes it a crime to sell or possess "any instrument, attachment, weapon or appliance for causing the firing of any . . . firearm to be silent or intended to lessen or muffle the noise of the firing of any . . . firearm." G. L. c. 269, § 10A. Law enforcement officers with certain authorizations are exempted when "acting within the scope of official duties." *Id.*

Plaintiffs allege that this law unconstitutionally bars them from purchasing or possessing firearm

silencers, violates the Equal Protection Clause by exempting certain law enforcement officers, and that they would own and use firearms suppressors (a.k.a. silencers or mufflers) were it not for the threat of criminal prosecution and punishment imposed by G. L. c. 269, § 10A. Plaintiffs also assert the statute violates Article 106 of the Massachusetts Constitution.

B. Massachusetts's restriction on threaded barrels (G. L. c. 140, §§ 121, 131M(a))

The Legislature passed an Act Modernizing Firearm Laws, St. 2024, c. 135, § 71, in 2024. The legislation is codified at G. L. c. 140, § 131M(a). The statute defines "assault-style firearm" to include "semiautomatic, centerfire rifle[s]" and "semiautomatic pistol[s]" that have "at least 2" of certain enumerated characteristics, including "a folding or telescoping stock," "a thumbhole stock or pistol grip," and a "threaded barrel." G. L. c. 140, § 121 (definition of "assault-style firearm"). For a "semiautomatic, centerfire rifle," the threaded barrel must be "designed to accommodate a flash suppressor or muzzle break or similar feature." *Id.* For a "semiautomatic pistol," the threaded barrel must be "capable of accepting a flash suppressor, forward handgrip or silencer." *Id.*

Plaintiffs allege this law violates the Second Amendment "[b]y barring [them] from possessing a firearm that has a threaded barrel and another [enumerated] characteristic." Plaintiffs allege they would each obtain and use firearms with a threaded barrel were it not for the threat of prosecution and punishment imposed by Massachusetts law.

C. Massachusetts's prohibition on "Dangerous Weapons" (G. L. c. 269, § 10(b))

The statute regulating "Dangerous Weapons" in Massachusetts dates back to 1794. *See* Ch. 26, 1794 Mass. Acts 66 (Jan. 29, 1795). It has been amended over the centuries, most recently in 1957. St. 1957, c. 688, § 23. The prohibitions are codified in their current form at G. L. c. 269, § 10(b), which makes it unlawful to "carr[y] on [one's] person or under [one's] control in a vehicle" a list of certain dangerous weapons, such as "zoobows," "blackjacks," "metallic knuckles," "slung shots," and others.

Plaintiffs allege the prohibition violates their Second Amendment right to keep and bear arms. Plaintiffs allege they would each obtain and possess the items banned by the above statute were it not for the threat of prosecution and punishment imposed by Massachusetts law.

D. Massachusetts's Firearm Registration and Reporting Requirements (G. L. c. 140, § 121B)

Massachusetts requires that "[a]ll firearms possessed, manufactured or assembled in the commonwealth . . . be registered." G. L. c. 140, § 121B (a)(1). To register a firearm, the registrant must submit their identifying information through the electronic firearms registration system, including:

> "the registrant's name, address and contact information; [] the registrant's license, card or permit type, license card or permit number . . . or documentation of exemption . . . ; the type of firearm; [] the date the firearm was acquired: [] the name and address of the source from which the firearm was obtained,

> including the name and address of the prior registrant if applicable; [] whether the firearm is a privately made firearm; and [] a statement signed by the registrant under the pains and penalties of perjury that they are properly licensed, permitted or exempted under the laws of the commonwealth and are not otherwise prohibited from owning or possessing a firearm." *Id.*

Firearm registrants are also required to report "[a]ny loss or theft of a firearm," as well as any firearm "transfer." *Id.* at § 121B(2)(b)-(c).

Plaintiffs allege that requiring them to "register their firearms and report the loss, transaction, or theft of a firearm . . . violates the Second Amendment."

E. Massachusetts's Firearm License Fees (G. L. c. 140, § 121F(o)-(p))

To apply for or renew "any license, card or permit" to own or carry firearms, Massachusetts assesses a $100 fee. G. L. c. 140, § 121F(o)(i). The $100 fee has been the same for more than 20 years. *See* St. 2003, c. 26, §§ 428-429. The fee is reduced to $25 for certain individuals including "active and retired law enforcement officials or local, state or federal government entities acting on their behalf." G. L. c. 140, § 121F(o)(ii). The fee for renewal of a license to carry or a firearm identification card is waived for "[a]ny person over the age of 70 and any law enforcement officer applying through their employing agency." G. L. c. 140, § 121F(p).

Plaintiffs assert that charging any fee for a license to carry firearms violates the Second Amendment and Article 17 of the Declaration of Rights. Plaintiffs fur-

ther assert that reducing or waiving these fees for certain individuals violates the Equal Protection Clause. Plaintiffs allege that they would keep and bear arms without a license were it not for the threat of prosecution or punishment imposed by current Massachusetts law.

F. Massachusetts's Firearm prohibitions in schools, polling places, and certain government-controlled locations (G. L. c. 269, § 10(j)-(k))

Massachusetts prohibits civilians from carrying firearms in certain place, including "any building or . . . grounds of an elementary school, college or university." G. L. c. 269, § 10(j). Firearms are also prohibited in any "place owned, leased, or under the control of state, county or municipal government and used for the purpose of government administration, judicial or court administrative proceedings, or correctional services." G. L. c. 269, § 10(k)(1), (k)(2). Firearms are also prohibited in "polling place[s]" and locations in use for "storage or tabulation of ballots." *Id.* All of these prohibitions except law enforcement personnel. G. L. c. 269, § 10(j), 10(k)(5).

Plaintiffs assert that any prohibition on firearms in the identified restricted locations violates the Second Amendment and Article 17 of the Declaration of Rights. Plaintiffs also assert that excepting certain law enforcement officers from the restrictions violates the Equal Protection Clause. Plaintiffs allege that they have been to each type of restricted place multiple times and would bear arms in those places were it not for the threat of prosecution and punishment imposed by Massachusetts law.

G. The Gaming Commission's prohibition on firearms in gaming establishments (205 Code Mass. Regs. § 138.20):

The Massachusetts Gaming Commission ("Commission") regulates the legal casino, horse racing, and sports wagering industries in Massachusetts. The Commission requires that a licensee's system of internal controls include a policy prohibiting any person from possessing a firearm within or upon the premises of a gaming establishment. 205 Code Mass. Regs. §138.20(1). The Commission also requires that the licensee report any violation of that policy to the Commissions Investigations and Enforcement Bureau, *Id.* The regulation provides exceptions for certain law enforcement personnel, such as "[a] member of the Massachusetts State Police assigned to the Gamine Enforcement Unit." 205 Code Mass. Regs. §138.20(2).

Plaintiffs allege that they would each possess firearms within and upon the premises of gaming establishments were it not for the prohibition contained in this regulation, Plaintiffs assert that the regulation violates the Second Amendment, Article 17 of the Declaration of Rights, and Article 106 of the Massachusetts Constitution (equal protection).

H. Massport's prohibition on firearms in airports (740 Code Mass. Regs. § 30.04)

The Massachusetts Port Authority ("Massport") is a public authority that operates several airports in Massachusetts, including Logan Airport. Massport generally prohibits "carry[ing] loaded or otherwise operational Firearms or explosives at the Airport." 740 Code Mass. Regs. §30.04(1). To transport an unloaded firearm, a person must "promptly upon

entering the passenger terminal or General Aviation Terminal, . . . deliver any unloaded Firearms and ammunition . . . to the appropriate Air Carrier agent for transport in the hold of the aircrafts, in the case of commercial flights. . . . " *Id.*

Plaintiffs allege that they have been on airport property and would possess, transport, and carry ammunition and loaded and operational firearms on airport property, outside of secured, enclosed areas, were it not for the prohibition contained in this regulation. Plaintiffs assert that the restrictions imposed by the regulation violate the Second Amendment.

I. Massachusetts's ban on loaded rifles and shotguns on public ways (G. L. c. 269, § 12D)

Massachusetts generally prohibits any person from "carry[ing] on his person . . . a loaded rifle or shotgun" while "on a public way." G. L. c. 269, § 12D. To carry a rifle or shotgun on a public way, a person must keep the rifle or shotgun "unloaded" and "enclosed in a case." *Id.* There are some exceptions, including for persons engaging in hunting. G. L. c. 269, § 12D(d).

Plaintiffs allege that they each have been on public ways and would carry loaded rifles and shotguns, and unloaded rifles and shotguns, outside of a case were it not for the threat of prosecution and punishment imposed by Massachusetts law. Plaintiffs assert the law violates the Second Amendment.

J. Massachusetts Licensure Exceptions

Massachusetts makes various limited exceptions for possession of a firearm without a license or permit, including: certain law enforcement and military per-

sonnel, G. L. c. 140, § 129C(f) and certain common carriers engaged in shipping firearms into Massachusetts for sale, G. L. c. 140, § 129C(c) are exempt; Massachusetts residents returning to the commonwealth after an extended absence, new residents, and nonresidents are given latitude for possessing firearms without a license, G. L. c. 140, § 129C(a), (i)-(k); and a license is not required to carry "a firearm and blank ammunition" during "any television, movie, stage or other similar theatrical production," so long as that carry is "under the immediate supervision of a person licensed to carry firearms." G. L. c. 140, § 131F½.

Plaintiffs assert that these exceptions violate the Equal Protection Clause of the Fourteenth Amendment by discriminating based upon civilian status and residency.

K. Extreme Risk Protection Orders (G. L. c. 140, § 131R-131Y)

Massachusetts allows a person who believes that another person who owns or controls a firearm and poses a risk of causing bodily injury to themselves or others to file a petition for an extreme risk protection order ("ERPO") in court under penalty of perjury. G. L. c. 140, § 131R. Upon receipt of a petition, a court must hold a hearing after the subject of the petition has received at least seven (7) days' notice, and at which the subject shall have a full and fair opportunity to respond. G. L. c. 140, § 131S. If the petition is granted, the court issues the ERPO and order the subject of the petition to surrender any licenses to carry firearms, as well as any firearms and ammunition they control, own, or possess. G. L. c. 140, § 131V.

Plaintiffs allege the above statutes allow the confiscation of a person's license to carry firearms or firearm identification card without criminal conviction in violation of the Second Amendment, the Fourth Amendment (unreasonable search and seizure), the Fourteenth Amendment (due process and equal protection), and Article 14 of the Declaration of Rights.[3]

L. Harassment Prevention Orders (G. L. c. 258E, §§ 4A-4C)

Under G. L. c. 258E, §§ 5-6, a court may enter an order to protect a plaintiff from harassment upon a showing that the plaintiff faces a substantial likelihood of immediate danger. Upon entry of such an order, a court must order the defendant to surrender all firearms in their control and any license to carry or firearm identification card they hold. G. L. c. 258E, § 4A-4C.

Plaintiffs assert the statute violates Article 14 of the Declaration of Rights.

M. Attorney General's regulations on handgun sales (940 Code Mass. Regs. §§ 16.00)

The Attorney General promulgated regulations in 1999, pursuant to authority granted in G. L. c. 93A, § 2, that define unfair and deceptive practices in the sale of handguns. *See* 940 Code Mass. Regs. §§ 16.00. For example, they provide that "[i]t shall be an unfair and deceptive practice for a handgun-purveyor to transfer . . . any . . . handgun" that is made from certain "inferior materials." 940 Code Mass. Regs. § 16.06. Nearly all of the proscriptions apply to

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[3] Plaintiffs do not allege that any of them are subject to any current ERPO under the challenged statute.

"handgun-purveyors," defined as "any person or entity that transfers handguns" to customers in Massachusetts, with a carve out for people that "transfer[] less than five handguns per year." 940 Code Mass. Regs. § 16.01.

Plaintiffs assert that 940 Code Mass. Regs. §§ 16.00 violates the Second Amendment and separation of powers principles under Article 30 of the Declaration of Rights.

N. Massachusetts's assault-style firearms roster (G. L. c. 140, §§ 131 ½, 131 ¾)

In 2024, the Legislature created a Firearm Control Advisory Board ("Board") within the Executive Office of Public Safety. St. 2024, c. 135, §§ 50-51 (codified at G. L. c. 140, §§ 131½, 131¾). One of the Board's duties is to advise the Secretary of Public Safety as to what firearms should be included on a "roster of assault-style firearms" that are banned in Massachusetts. *Id.*

The court takes notice of the fact, relayed via affidavit of the Chairperson of the Firearms Control Advisory Board, that the "roster of assault-style firearms banned under [G. L. c. 140, § 131M]," pursuant to legislation enacted in 2024, has not yet been published. *See Mass. State Auto. Dealers Assoc., Inc. v. Tesla Motors MA, Inc.*, 469 Mass. 675, 677 n.8 (2014) (A judge ruling on a motion to dismiss for lack of standing pursuant to Mass. R. Civ. P. 12(b)(1) may properly consider affidavits and other exhibits), citing *Ginther v. Commissioner of Ins.*, 427 Mass. 319, 322 (1998). Currently, there are not any weapons that are banned by virtue of appearing on the roster, though it

is highly likely that the Board will publish a list of banned firearms in the future.

Plaintiffs aver that banning weapons appearing on the assault-style firearms roster violates the Second Amendment and separation of powers principles under Article 30 of the Declaration of Rights.

O. Massachusetts's serialization requirements (G. L. c. 140, §§ 121, 121C)

In Massachusetts "[a]ll firearms shall have a serial number" that is "conspicuously engraved, cast or otherwise permanently embedded with a unique serial number on the frame or receiver," among other requirements. G. L. c. 140, § 121C(a). It is a crime to possess, manufacture, assemble, sell, or transfer a firearm that has not been serialized, with a few exceptions (*e.g.*, common carriers, federal property, being delivered to law enforcement for destruction). G. L. c. 140, § 121C(b), (c) and (g).

Plaintiffs assert that requiring the serialization of firearms violates the Second Amendment.

Relief Sought

Plaintiffs seek monetary, injunctive, and declaratory relief under 42 U.S.C. § 1983 and declaratory judgment under G. L. c. 231A declaring the challenged statutes and regulations "unconstitutional, void, and unenforceable." Plaintiffs also seek injunctions barring the Defendants from enforcing the challenged laws. Finally, Plaintiffs request compensatory and/or punitive damages for any harms suffered as a result of Defendants infringing their constitutional rights, including costs and expenses of this action under 42 U.S.C. § 1988.

DISCUSSION

At the outset, the court notes that the Plaintiffs argue in their brief that Defendants exceeded page limits imposed by the court's rules. The court finds no violation and/or declines to impose any sanction for the immaterial complaints made about the form of the Defendants' papers. The court notes that Plaintiffs continued to supplement their briefing on at least three occasions since the motion was heard, also in violation of the court's rules. However, as the supplemental submissions contained no added issues of argumentation, and contain only printed copies of judicial opinions, or briefs filed in other jurisdictions presumably supporting Plaintiffs' positions, I deem any violations harmless. I have considered all of the parties' submissions in reaching the below decision.

I. Standing

The Defendants first move to dismiss most of Plaintiffs' claims pursuant to Mass. R. Civ. P. 12(b)(1) for lack of standing.

The issue of standing is one of subject matter jurisdiction. *Sullivan v. Chief Justice for Admin. & Mgt. of the Trial Court*, 448 Mass. 15, 21 (2006), citing *Planning Bd. of Marshfield v. Zoning Bd. of Appeals of Pembroke,* 427 Mass. 699, 703 (1998). "Standing . . . is a 'threshold' inquiry" that must be addressed "before entertaining the substantive validity of the law or policy that is being challenged." *Commonwealth v. Marquis,* 495 Mass. 434, 440 (2025) ("*Marquis*"), *citing Lujan v. Defenders of Wildlife,* 504 U.S. 555, 569 (1992).

Only one whose rights are impaired by a statute can raise the question of its constitutionality, and he can object to the statute only as applied to him.

Marquis, 495 Mass. At 439, quoting *Massachusetts Comm'n Against Discrimination v. Colangelo,* 344 Mass. 387, 390 (1962). Likewise, "[a]s a general matter, to establish standing to challenge an allegedly unconstitutional policy, a plaintiff must submit to the challenged policy." *Id.*, quoting *Jackson-Bey v. Hanslmaier*, 115 F.3d 1091, 1096 (2d Cir. 1997). "To have standing in any capacity, a litigant must show that the challenged action has caused the litigant injury." *Sullivan*, 448 Mass. at 21, quoting *Slama v. Attorney Gen.,* 384 Mass. 620, 624 (1981). "Injuries that are speculative, remote, and indirect are insufficient to confer standing." *Ginther v. Comm'r of Ins.*, 427 Mass. 319, 323, citing *Burlington v. Bedford*, 417 Mass. 161, 164 (1994). "Not every person whose interests might conceivably be adversely affected is entitled to [judicial] review." *Pugsley v. Police Dep't of Boston*, 472 Mass. 367, 372 (2015), quoting *Group Ins. Comm'n v. Labor Relations Comm'n,* 381 Mass. 199, 204 (1980).

The "plaintiff bears the burden of establishing standing," and "must plead facts sufficient to demonstrate a nonspeculative particular and personal harm resulting from the challenged action." *Vita v. New England Baptist Hosp.,* 494 Mass. 824, 832 (2024). "[O]nly persons who have themselves suffered, or who are in danger of suffering, legal harm can compel the courts to assume the difficult and delicate duty of passing upon the validity of the acts, of [another] branch of government" [citation omitted]). *Animal Legal Defense Fund, Inc. v. Fisheries & Wildlife Bd.,* 416 Mass. 635, 638 (1993).

Plaintiffs argue based upon a U.S. Supreme Court case, *Medimmune, Inc. v. Genentech, Inc.*, 549 U.S. 118,

128-129 (2007), that they need not allege particular injury because "where threatened action by government is concerned, [courts] do not require a plaintiff to expose himself to liability before bringing suit to challenge the basis for the threat—for example, the constitutionality of a law threatened to be enforced." That case was brought under the federal Declaratory Judgment Act, 28 U.S.C. § 2201(a), which "procedure is an alternative to pursuit of the arguably illegal activity." *Id., quoting Steffel v. Thompson,* 415 U.S. 452, 480 (1974).

The case is inapposite for two reasons. First, this matter is not brought under 28 U.S.C. § 2201(a). Thus, a federal case, even a Supreme Court decision, interpreting that statute is of minimal assistance here. More importantly, Plaintiffs' argument ignores the requirement stated in *Medimmune, Inc.*, that there must be the "threat" of government action. *See id.* Plaintiffs appear to argue the "threat" is the fact that the challenged laws make certain firearms, or actions involving firearms, illegal as to them. However, the threat must be personal and not general. *See id. See also Sullivan*, 448 Mass. at 21. None of the Plaintiffs have alleged any specific government threat of enforcement against them personally; only that the laws make certain firearms, or actions involving firearms, illegal. To follow Plaintiffs' logic would do away with the well-established rule, recently reaffirmed by the Supreme Judicial Court, that to establish standing to challenge an allegedly unconstitutional policy "a plaintiff must submit to the challenged policy," *Marquis*, 495 Mass. at 439, and "show that the challenged action has caused the litigant injury," *Sullivan*, 448 Mass. at 21.

With this standard in mind, I turn to each of the statutes and regulations the Plaintiffs challenge. As the standing analysis is slightly different depending on the nature of each law challenged, I group the challenged laws into four related categories: (1) firearms laws and regulations prohibiting the possession of certain types of weapons (*i.e.*, serialization requirement, silencers, threaded barrels, other "Dangerous Weapons," the roster of assault-style weapons); (2) firearms laws creating areas of restriction where firearms may not be possessed or carried (*i.e.*, public ways, airports, gaming establishments, schools, polling places, public buildings); (3) laws allowing for the confiscation of firearms licenses and firearms (ERPO and harassment orders); and (4) the firearm licensing, sale, and registration scheme (licensing fees, registration and reporting requirements, regulations on handgun sales).

As for the laws falling into the first two categories, the Plaintiffs allege only that they would obtain weapons that are currently prohibited or would possess or carry weapons in the various restricted areas were it not for the legal prohibitions and threat of prosecution and punishment. Based on these allegations, the Plaintiffs have failed to articulate an injury that is anything but hypothetical. They do not allege facts that any of them have actually submitted themselves to the challenged laws or regulations and faced a threat of government action as a result that would cause them injury in the form of a deprivation of protected rights. *See Marquis,* 495 Mass. at 440. The only injury Plaintiffs allege is that the laws and regulations exist and apply to the Plaintiffs in the same way they apply to every citizen and visitor to the

commonwealth. Such an injury, if it be called such, is too "speculative, remote, and indirect" to confer standing. *See Ginther,* 427 Mass. at 323. It bears repeating that "[n]ot every person whose interests might conceivably be adversely affected is entitled to [judicial] review." *See Pugsley*, 472 Mass. at 372.

Accordingly, I conclude that Plaintiffs have failed to meet their burden to "plead facts sufficient to demonstrate a nonspeculative particular and personal harm" resulting from the following challenged laws: G. L. c. 269, § 10A (silencers); G. L. c. 140, §§ 121, 131M(a) (threaded barrels); G. L. c. 269, § 10(b) ("Dangerous Weapons"); G. L. c. 140, §§ 131½, 131¾ (roster of assault-style weapons); G. L. c. 140, §§ 121, 121C (serialization requirement); G. L. c. 269, § 10(j)-(k) (schools, polling places, and government-controlled buildings); 205 Code Mass. Regs. § 138.20 (gaming establishments); and 740 Code Mass. Regs. § 30.04 (airports). *See Vita,* 494 Mass. at 832. Because standing is a "threshold" inquiry, this court may not entertain the substantive validity of these challenged laws. *See Lujan*, 504 U.S. at 569; *Marquis*, 495 Mass. at 440. Accordingly, Plaintiffs' claims challenging the constitutionality and/or validity of the above-listed firearms statutes and regulations are hereby DISMISSED for lack of standing.

Plaintiffs next challenge the laws concerning Harassment Prevention Orders (G. L. c. 258E, §§ 4A-4C) and Extreme Risk Protection Orders (G. L. c. 140, § 131R-131Y), which permit confiscation of firearms licenses, firearm identification ("FID") cards, and firearms. Plaintiffs assert that these statutes unconstitutionally allow the confiscation of a person's firearms, license to carry firearms, or FID card without

criminal conviction. None of the Plaintiffs allege in the Amended Complaint that they are subject to, or ever have been subject to, either an ERPO or Harassment Prevention Order. Plaintiffs argue that they need not wait until these statutes are used against them before challenging their constitutionality. However, as discussed at length above, to establish standing the Plaintiffs must allege a threat to themselves of government action under the challenged statutes, *see Medimmune, Inc.*, 549 U.S. at 128-129, *Marquis*, 495 Mass. at 439, and allege they have suffered more than a general or speculative harm as a result, *see Sullivan*, 448 Mass. at 21. I conclude they have not done either. Accordingly, Plaintiffs' claims challenging the constitutionality and/or validity of G. L. c. 258E, §§ 4A-4C and G. L. c. 140, § 131R-131Y are hereby DISMISSED for lack of standing.

I turn now to the last category of challenged laws: the firearm licensing, sale, and registration scheme. The Supreme Judicial Court has long held that standing to bring an as-applied challenge to the Commonwealth's firearm licensing scheme requires having applied for (and been denied) a license or FID card pursuant to that scheme. *See, e.g., Commonwealth v. Cassidy*, 479 Mass. 527, 539 n.10, cert. denied, 586 U.S. 876 (2018). Here, all the Plaintiffs allegedly hold firearms licenses or FID cards.[4]

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[4] Plaintiffs concede in their brief that Katalin Egri neither owns firearms nor is licensed to own them. Nor are there any allegations in the Amended Complaint indicating Katalin Egri has submitted herself to any of the challenged laws. *See Marquis*, 495 Mass. at 439. Accordingly, all her claims are DISMISSED for lack of standing. *See id.* The court does not include her when referring to "Plaintiffs" below.

It is a fair inference from the allegations of the Amended Complaint that Plaintiffs have all applied for a firearms license or FID card and been *granted* one. None of the Plaintiffs allege they were denied a firearms license. Thus, under the licensing scheme, as applied to these Plaintiffs, there has been no infringement of their Second Amendment rights because they are able to own, possess, and use firearms in Massachusetts. The licensing scheme, as applied to them, has not caused them any harm. The Supreme Judicial Court made it clear in *Cassidy* and its progeny that a person must have applied for "and been denied" a license or FID card under the licensing scheme to have standing to challenge it on constitutional grounds. *See Cassidy*, 479 Mass. at 539 n.10. As none of the Plaintiffs allege that they have applied for and been denied a firearms license or FID card, they have not pleaded sufficient facts to establish standing to challenge the constitutionality of the gun licensing scheme. *See id. See also Marquis*, 495 Mass. at 440. Similarly, Plaintiffs do not allege any harm or infringement caused by the firearm registration and reporting scheme that is specific to them, as opposed to any other citizen or visitor to the commonwealth. Accordingly, Plaintiffs' claims challenging the following laws must be dismissed for lack of standing: G. L. c. 140, § 121B (registration and reporting); G. L. c. 140, § 121F(o)-(p) (licensing).[5]

Plaintiffs also challenge 940 Code Mass. Regs. §§ 16.00, regulations promulgated by the Attorney

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[5] I reserve discussion on Plaintiffs' challenge to the $100 licensing fee charged to obtain a firearms license or FID card for Section II, infra.

General related to handgun sales. These regulations apply primarily to "handgun-purveyor[s]," a defined term that includes "any person or entity that transfers handguns to a customer located within the [commonwealth]," but excludes any person who "transfers less than five handguns per year." 940 Code Mass. Regs. § 16.01. Plaintiffs do not allege that they are "handgun-purveyor[s]," only that they would "acquire more firearms" but for the regulations and would "fully exercise their constitutional rights." Such allegations are not sufficient to demonstrate the challenged regulation applies to the Plaintiffs, or demonstrate the Plaintiffs have suffered, or will suffer, any non-speculative harm as a result of the regulations. *See Ginther*, 427 Mass. at 323. Accordingly, Plaintiffs claims challenging the 940 Code Mass. Regs. §§ 16.00 must be DISMISSED for lack of standing.

II. Rule 12(b)(6)

"To withstand a motion to dismiss pursuant to Mass. R. Civ. P. 12(b)(6), a complaint must set out "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief[.]" *Iannacchino, v. Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 555 (2007). *See also Fairhaven Housing Auth. v. Commonwealth,* 493 Mass. 27, 31 (2023) (same). To meet this burden, a plaintiff may not assert "legal conclusions cast in the form of factual allegations." *Schaer v. Brandeis Univ.*, 432 Mass. 474, 477 (2000). A plaintiff must allege facts sufficient "to raise a right to relief above the speculative level . . . [based] on the assumption that all the allegations in the complaint are true (even if doubtful in fact) . . . ." *Iannacchino*, 451 Mass. at 636 (ellipses and parentheses in original),

quoting *Twombly*, 550 U.S. at 555. The reviewing court must accept the well-pleaded factual allegations of the complaint as true. *See Curtis*, 458 Mass. at 676.

The analysis of Plaintiffs' challenge to the $100 fee charged when applying for a firearm license or FID card differs from the claims discussed above, as Plaintiffs have alleged facts sufficient to support standing. *See Marquis*, 495 Mass. at 440. All the Plaintiffs, with the exception of Katalin Egri, possess valid firearms licenses. It is a fair inference that they all paid the $100 fee to obtain those licenses. Thus, those Plaintiffs have been potentially injured by the imposition of the challenged $100 fee.

Plaintiffs assert that "charging [them] fees to obtain a license to carry firearms . . . violates the Second Amendment." The court interprets the Plaintiffs' argument to be that charging any fee to obtain a firearms license, no matter the amount, violates the Second Amendment. However, Plaintiffs are not the first to make such a challenge, and past decisions upholding the validity of a non-exorbitant fee make clear that the Supreme Judicial Court and the Supreme Court have each concluded that reasonable firearms licensing fees pass constitutional muster.

Bruen supports states requiring licensure to possess or own firearms, and that any attendant fees only violate the Second Amendment if they are so "exorbitant" as to "deny ordinary citizens their right to public carry." *Bruen*, 597 U.S. at 38 n.9. Following *Bruen*, courts in other jurisdictions have concluded that fees comparable to Massachusetts are not "exorbitant." *See, e.g.*, *Mills* v. *New York City*, 758 F. Supp. 3d 250, 267-268 (S.D.N.Y. 2024) (upholding $340 licensing fee and stating that plaintiff's argument

that "requiring that an individual pay a fee to the government before they can . . . possess and/or carry weapons [violates] the Second Amendment" is "foreclosed" under *Bruen* and its predecessors.); *People* v. *Gunn*, 227 N.E.3d 824, *29 (Ill. App. (1st) 2023) ($150 fee charged every 5 years not an "exorbitant fee."). The Supreme Judicial Court has very recently held that the licensing scheme for nonresidents charging an identical $100 application fee is constitutional under *Bruen*. *Marquis*, 495 Mass. at 457-460 (applying *Bruen* in upholding G. L. c. 140, § 131F).

Here, Plaintiffs make no allegation that the $100 fee charged in Massachusetts is "exorbitant." This omission alone justifies dismissal of their challenge to the fee under Rule 12(b)(6). *See Mills,* 758 F. Supp. 3d at 267-268. However, even an allegation of exorbitance would not pass muster, as "[t]he proceeds from the fee are substantially . . . allocated towards defraying the costs of administering the state licensing scheme" and the fee has not increased in over 20 years. *See O'Connell v. Gross,* 2020 U.S. Distr. LEXIS 62925, *19-20 (D. Mass. 2020) (Saylor, C.J.) (applying intermediate scrutiny in dismissing identical claim that $100 firearm license application fee violates the Second Amendment); St. 2003, c. 26, §§ 428-429 (establishing $100 fee). This court agrees with the reasoning requiring the dismissal of an identical challenge to the licensing fee that the federal District Court of Massachusetts decided in 2020, *see O'Connell,* 2020 U.S. Distr. LEXIS 62925 at *19-20, and declines to restate that reasoning here. Suffice to say, a claim that any fee charged for obtaining a firearms license violates the Second Amendment has been firmly rejected. *See id. See also Bruen,* 597 U.S. at 38 n.9.

Accordingly, Plaintiffs have failed to state a claim concerning G. L. c. 140, § 121F(o) for which relief can be granted. *See Iannacchino,* 451 Mass. at 636. Thus, those claims must be DISMISSED pursuant to Mass. R. Civ. P. 12(b)(6).

ORDER

For these reasons, it is hereby ORDERED that the Defendants' motions to dismiss [Paper Nos. 40 and 41] are ALLOWED. Plaintiffs' claims challenging the constitutionality and validity of the following laws are DISMISSED for lack of standing:

a. G. L. c. 269, § 10A (silencers);

b. G. L. c. 140, §§ 121, 131M(a) (threaded barrels);

c. G. L. c. 269, § 10(b) ("Dangerous Weapons");

d. G. L. c. 140, §§ 131½, 131¾ (roster of assault-style weapons);

e. G. L. c. 140, §§ 121, 121C (serialization requirements);

f. G. L. c. 269, § 10(j)-(k) (schools, polling places, and government-controlled buildings);

g. 205 Code Mass. Regs. § 138.20 (gaming establishments);

h. 740 Code Mass. Regs. § 30.04 (airports);

i. G. L. c. 269, § 12D (public ways);

j. G. L. c. 258E, §§ 4A-4C (Harassment Prevention Orders);

k. G. L. c. 140, § 131R-131Y (ERPOs);

l. G. L. c. 140, § 121B (registration and reporting);

m. G. L. c. 140, § 121F(o)-(p) (licensing); and

n. 940 Code Mass. Regs. §§ 16.00 (handgun sales).

Plaintiffs' claims challenging the constitutionality and validity of G. L. c. 140, § 121F(o) (licensing fee) are DISMISSED pursuant to Mass. R. Civ. P. 12(b)(6).

So ordered.

/s/ John C. Fraser
Justice of the Superior Court

Dated: August 14, 2025