

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

## May, 2024

### **Schuyler County Legislature (Pending): Resolution Opposing Senate Bill S8461a, Proposed Shooting Range Restrictions**

WHEREAS, there is a Bill pending in the New York State Senate Committee on Consumer Affairs and Protection to amend the Environmental Conservation Law to establish the “Sporting Range Good Neighbor Act”, and

WHEREAS, this mis-named Act would require skeet field tracts at shooting ranges to be a minimum of 600 yards by 300 yards with the shooting semicircle located in the middle of the long side; and if unable to comply, the range would be required to construct an appropriate backstop, covered by a roof, to prevent lead migration outside of the designated skeet field tract; the skeet field cannot include a wetland or open water source, and

WHEREAS, this proposed legislation is both unnecessary and burdensome for the numerous fish and game clubs, including those in Schuyler County, who have, for decades, maintained outdoor shooting ranges as good stewards; there are over 3,600 registered athletes on more than 140 teams in the New York State High School Clay Target League who depend upon the ability to practice and hold competition events at these clubs; this proposed legislation may end up closing these clubs and closing these student leagues, and

WHEREAS, this Bill is based upon misinformation as to the trajectory of skeet shots, and the reason why most trap and skeet fields have been operating for decades without the need for this additional legislation; participants are shooting shotguns with small lead pellet loads which are only capable of traveling a maximum distance of 150-200 yards; in addition, most clubs reclaim the expended pellets for reuse; if club members do not do it themselves, there are companies who go to some clubs and sweep the fields to reclaim and sell the shot for reuse, and

WHEREAS, the common practice in sweeping and reclaiming the shot negates any thought that a club would design its shooting field with a stream or water source where the shot would fall, and

WHEREAS, this proposed restrictive law demonstrates, once again, the short-sightedness of those who support this unnecessary legislation and the adverse effects it will have upon small, rural communities in Schuyler County and other areas of upstate New York where most of these fish and game clubs have been operating for decades, without causing any danger or lead contamination to waterways, and

WHEREAS, this proposed legislation will cause severe hardship on the clubs, members and schools who depend upon the fish and game clubs for this very popular recreational sport in Schuyler County and the Finger Lakes with no empirical evidence that the mandates and restrictions are necessary.

NOW, THEREFORE, BE IT RESOLVED, the Schuyler County Legislature vehemently opposes NYS Senate Bill S8461A and its unrealistic and arbitrary restrictions and requirements for outdoor shooting ranges and their skeet field tracts and calls upon the sponsor and supporters of this Bill to examine the real life impacts and financial realities this overly restrictive legislation will have on the fish and game clubs, high school clay target teams and leagues when these clubs, who have been operating for decades and already practicing good stewardship, are forced to close because of unnecessary and costly modifications required under this legislation, and BE IT FURTHER

RESOLVED that the Schuyler County Legislature calls upon the New York State Senate and Assembly to oppose this legislation if it moves out of committee for vote on the floor, and

BE IT FURTHER RESOLVED that the Clerk of the Legislature is directed to forward copies of this resolution to Governor Kathy Hochul, DEC Commissioner Basil Seggos, New York Senator Thomas F. O'Mara, Assemblyperson Phil Palmesano, New York State Association of Counties, Inter-County Association of Western New York and such others deemed necessary and proper.

<https://www.schuylercounty.us/DocumentCenter/View/1016/Management--Finance-Committee-Meeting-Agenda>

### **Sotomayor Denies Bid to Halt Morality Requirement for Gun Owners**

US Supreme Court Justice Sonia Sotomayor declined to put on hold a New York City licensing rule requiring prospective gun owners to show good moral character to own a firearm.

In rejecting a stay request on April 4 relating to a district court order that's being appealed, Sotomayor turned away yet another bid to prohibit government officials from enforcing their laws while being challenged in court.

Sotomayor, the justice who hears emergency requests out of the New York-based US Court of Appeals for the Second Circuit, denied the request without referring the matter to the full court.

The latest request was filed by a New York resident who says the city's rule violates the Second Amendment as outlined in the Supreme Court's 2022 decision in *New York State Rifle & Pistol Ass'n v. Bruen*.

A separate challenge to the morality licensing requirement is pending before the justices.

<https://news.bloomberglaw.com/us-law-week/sotomayor-denies-bid-to-halt-morality-requirement-for-gun-owners>

## **No Pseudonymity in Lawsuit Challenging N.Y.'s Involuntary Commitment System as It Affects Gun Rights**

Plaintiff contends that his Second and Fourteenth Amendment rights were, and are continuing to be, violated by the inclusion of his personal identifying information in the SAFE Act database [which New York maintains to "stop[] criminals and the dangerously mentally ill from buying a gun" -EV] and continued reporting to NICS and other third parties that Plaintiff is a prohibited person....

Plaintiff seeks a declaration from this Court that being "admitted", whether voluntarily or involuntarily, under MHL 9.39 does not constitute an "involuntary commitment to a mental institution" for purposes of terminating the rights protected by the Second and Fourteenth Amendments. Plaintiff seeks a declaration that MHL 7.09(j) is vague and overbroad and violates the Second and Fourteenth Amendments, as applied to Plaintiff....

The case is still in its early stages, so there has been no decision about the merits; but (in April) Judge Nelson S. Román held that plaintiff could not litigate pseudonymously.

<https://reason.com/volokh/2024/04/24/no-pseudonymity-in-lawsuit-challenging-n-y-s-involuntary-commitment-system-as-it-affects-gun-rights/>

### **Supreme Court will take up 'ghost guns' case next term**

The Supreme Court said Monday it would take up the issue of "ghost guns" next term and the Biden administration's appeal seeking to regulate the self-assemble weapons kits as any other firearm.

The 5th Circuit Court of Appeals struck down a 2022 regulation from the Bureau of Alcohol, Tobacco, Firearms and Explosives that determined the sale of weapons kits requires a background check and serialization of the parts for law enforcement tracking.

President Joe Biden had announced the new regulations in a White House event from the Rose Garden in April 2022.

"They call this rule I'm about to announce extreme," Biden said at the White House Rose Garden event.

The case will not be heard before the court until the fall.

<https://abcnews.go.com/Politics/supreme-court-ghost-guns-case/story?id=109493287>

### **Gun makers urge US Supreme Court to hear appeal in Mexico's lawsuit**

U.S. gun manufacturers on (April 19) asked the U.S. Supreme Court to hear their challenge to Mexico's \$10 billion lawsuit seeking to hold them responsible for facilitating the trafficking of firearms to violent drug cartels across the U.S.-Mexico border.

A trial court judge had dismissed the case citing that law, the Protection of Lawful Commerce in Arms Act. But the Boston-based 1st U.S. Circuit Court of Appeals in January concluded Mexico's claims fit within the narrow exception to the liability shield.

The 1st Circuit did so after finding that Mexico had plausibly alleged the business practices of the seven gun makers and one distributor it had sued aided and abetted the illegal trafficking of guns to Mexico.

The companies on Thursday told the 6-3 conservative majority U.S. Supreme Court that the 1st Circuit's ruling defied the high court's past precedents and should never have been allowed to move forward.

The companies argued that without the U.S. Supreme Court's intervention, the U.S. firearms industry would face years of costly litigation by a "foreign sovereign that is trying to bully the industry into adopting a host of gun-control measures that have been repeatedly rejected by American voters."

<https://www.reuters.com/world/us/gun-makers-urge-us-supreme-court-hear-appeal-mexicos-lawsuit-2024-04-19/>

### **Third Circuit panel skeptical of felon's right-to-carry claim**

A Third Circuit panel on Thursday appeared likely to side with the government on a 22-year-old's claims he should not have been prosecuted for possessing a stolen firearm while on parole.

Assistant federal public defender Jason Ullman asked a three-person Third Circuit panel Thursday to see his client Tahjair Dorsey like the court had seen Bryan Range in its June 2023 ruling in *Range v. Attorney General*.

In *Range*, the court held that the husband and father of three, who had pleaded guilty to making a false statement to obtain food stamps in 1995, could not be stripped of his Second Amendment right to bear arms since his crime was nonviolent. Notably, while the crime was punishable by up to five years in prison, Range didn't serve time in prison.

U.S. Circuit Judge Thomas Hardiman seemed skeptical that Dorsey's situation was similar to Range's. U.S. Circuit Judge Peter Phipps, a Donald Trump appointee, agreed.

Dorsey was prohibited from having firearms based on his prior April 2021 conviction for possessing a firearm without a license, a charge to which he pleaded guilty and was sentenced 6 to 24 months in county prison.

This conviction stemmed from a September 2019 arrest in which police approached Dorsey outside of a home after receiving reports he was carrying a weapon. Dorsey fled, dropping a 9 mm Glock with a fully loaded 30-round extended capacity magazine.

<https://www.courthousenews.com/third-circuit-panel-skeptical-of-felons-right-to-carry-claim/>

## Hair Trigger Liabilities: Can a Light Trigger Get You into Trouble?

It can be an issue in both criminal cases and civil lawsuits. For different reasons.

A politically motivated prosecutor wants to get a conviction out of a self-defense shooting. He knows that Murder, for which he has to show malice, is going to be a high bar. Specifically when the defendant is a good citizen.

However, what if the prosecutor instead charges Manslaughter, where recklessness is the key ingredient? All he must do is convince the jury that a nice person did something careless and shot the “victim” by accident, causing death.

Ever notice that you’ve heard of justifiable homicide but never heard the phrase “justifiable accident”? Since self-defense must be an intentional act, the prosecutor just needs to convince the jury you accidentally killed the guy. As a result, a Manslaughter conviction is much more likely.

And shooters know that the lighter and shorter the trigger pull is, the more easily such an accident can happen. Particularly under stress, such as in a gunpoint situation. The good news is that light triggers are easy to shoot. The bad news is...they’re easy to shoot.

In civil suits, the plaintiff’s counsel may also claim that you negligently discharged a “hair-trigger” gun. Thus causing the “wrongful death” in question. Why? They’re looking for deep pockets.

Most individual defendants don’t have millions of dollars in liquid assets that the attorneys can seize to satisfy the judgment if they win. However, if you shoot a home invader and have homeowner’s insurance or shoot a carjacker or road rager and have automobile liability insurance, the insurance company has the money!

And no liability insurance company will pay off on a willful tort—your deliberate act that harmed another. But they do have to pay off for negligence.

<https://www.athlonoutdoors.com/article/hair-trigger/>

## Gun Violence Statistics 2024: A Comprehensive Look at the Data

The U.S. has more than 82 million lawful firearm owners.

53% of the 21 states with restrictive concealed carry laws have violent crime rates higher than the national average.

55% of states with a violent crime rate below the national average have permitless carry.

Between 60,000 and 2.5 million Americans use firearms for self-defense each year.

40% of criminals convicted of crimes while in possession of a firearm were already prohibited from carrying firearms.



A 2018 study shows that 68% of those convicted of crimes while in possession of a firearm were already felons.

The U.K. and Australia have a higher number of homicides per firearm than the United States.

<https://ammo.com/articles/gun-violence-statistics>

### **Tennessee lawmakers join movement allowing some teachers to take guns into schools**

The Republican-led Legislature in Tennessee gave final approval to the legislation Tuesday, just days after Republican governors in Iowa and Nebraska signed laws that also expand the potential for armed personnel in schools.

Tennessee lawmakers followed that up with more gun-rights measures Wednesday, giving final approval to bills letting retired law officers bring guns into schools and prohibiting local extreme-risk-protection ordinances that allow guns to be removed from people judged to pose a threat to themselves or others.

Both bills head next to Republican Gov. Bill Lee

<https://ny1.com/nyc/brooklyn/ap-top-news/2024/04/24/tennessee-lawmakers-join-movement-allowing-some-teachers-to-take-guns-into-schools>

### **Semiautomatic Firearm Ban Passes Colorado's House, Heads to Senate**

Colorado's Democratic-controlled House on Sunday passed a bill that would ban the sale and transfer of semiautomatic firearms

Republicans decried the legislation as an onerous encroachment on the U.S. Constitution's Second Amendment. They argued that mental illness and people who do not value life — not guns — are the issues that should be addressed. People with ill intent can use other weapons, such as knives, to harm others, they argued.

<https://www.usnews.com/news/us/articles/2024-04-14/semiautomatic-firearm-ban-passes-colorados-house-heads-to-senate>

### **Maine Democrats pass gun control measures, but red flag bill flounders**

The late-session bill from House Speaker Rachel Talbot Ross (D-Portland) proposed an extreme risk protection order system designed to help family and police more easily seize weapons from those considered dangerous.

A spokeswoman for Talbot Ross said the Legislature — which adjourned just before 6 a.m. Thursday after working through the night — ran out of time to consider the red flag bill.

The bills that passed include a 72-hour waiting period between when a gun is purchased and picked up; a ban on bump stocks that make it easier to fire more bullets more quickly and an expansion of background checks for private advertised firearm sales.

<https://spectrumlocalnews.com/me/maine/news/2024/04/18/democrats-pass-gun-control-but-red-flag-bill-flounders->

### **Gun-Control Groups Outraise NRA, Gun-Rights Movement in March**

The country's largest gun rights group continues to fall behind its ideological opponents in political fundraising in 2024, new federal records show.

The National Rifle Association Political Victory Fund (PVF), the group's political action committee, raised just under \$660,000 in March, according to Federal Election Commission (FEC) filings. The group's super PAC raised an additional \$25,000 last month. Meanwhile, the political fundraising arms of the country's three major gun control groups together raised more than \$880,000 over the same 30 days.

The National Shooting Sports Foundation's PAC brought in \$89,917.15 in March and reported \$210,710.96 in cash on hand. The National Association for Gun Rights PAC received \$90,531.96 and retained \$100,875.20 on hand. Meanwhile, Gun Owners of America's PAC raised just \$588 in March and has \$10,550.57 in remaining funds.

Two other gun-rights political operations, the super PACs for the National Shooting Sports Foundation (NSSF) and the United States Concealed Carry Association, only filed quarterly reports with the FEC. The United States Concealed Carry Association For Saving Lives reported raising \$302,534.97 through the first three months of 2024. At the beginning of April, it had \$242,243.22 left to spend. The NSSF's Protect Liberty PAC brought in \$63,239.80 during that time and has \$42,493.94 remaining.

Those groups raised \$181,037.11 in March. Despite the NRA's diminished capacity, none of the pro-gun alternatives matches its March haul. Similarly, the gun-rights movement's combined total of \$863,792.06 couldn't match that of the gun-control movement's \$880,335.24 payday.

<https://thereload.com/gun-control-groups-outraise-nra-gun-rights-movement-in-march/>

### **Hogg Wild: Filings Show Left-Wing Gen-Z PAC Blew More than \$1M on Travel Expenses, Consultants, Spent Little on Candidates**

Gun control activist David Hogg is living high on the hog thanks to the many donors cutting checks to his political action committee (PAC), Federal Election Commission (FEC) records show.

Hogg created a group in the aftermath of the 2022 midterm elections called Leaders We Deserve PAC, which states that its goal is to elect Generation Z politicians to offices throughout the country. He created the PAC with Kevin Lata, the campaign manager for Rep. Maxwell Frost (D-FL)—a Generation Z Democrat elected in 2022.

Since Hogg's group came into fruition, much of the few million dollars raised has gone not to electing candidates or executing its stated mission but to luxurious expenses, such as travel bills, as well as political consultants and legal fees. In fact, the group, in 2023, only spent on a handful of candidates—four to be exact—one of whom was already serving in the U.S. Congress, Frost, and another who lost a race in a special election in Alabama. The vast majority of the group's money, the FEC filings from 2023 show, did not go to helping candidates at all—and much of it went to other political consultants at various firms, as well as to Hogg and Lata, with a lavish travel budget to boot.

<https://www.breitbart.com/politics/2024/04/08/exclusive-hogg-wild-filings-show-leftwing-gen-z-pac-blew-more-than-1m-on-travel-expenses-consultants-spent-little-on-candidates/>

### **Gun Control Enables Sexual Violence**

The anti-gunners at Everytown or Brady will quickly say a gun in the home only raises the level of danger or point out that a man could use the gun against the woman, but what they won't acknowledge is that a trained woman with a gun is the best defense when seconds count.

Here are the sobering facts the Left doesn't want the public to see – women are buying guns, and they're doing so at a rate higher than ever before in history. Data from Harvard's School of Public Health confirmed that nearly 50% of new gun owners in 2021 were women, and polling confirms that the leading reason women own guns is self-defense (say over 70% of respondents).

Just last summer, one researcher identified over a dozen confirmed instances in a mere two week stretch where women used a firearm to protect themselves, often from intimate partners or exes.

<https://townhall.com/columnists/antoniaokafor/2024/04/20/gun-control-enables-sexual-violence-n2638050>