

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

October, 2022

Schuyler County SCOPE to host “Meet the Candidates Night” October 6.

Date/Time: Thursday, October 6, 2022 at 7:00 pm

Location: Montour Falls Moose Lodge, 2096 State Rt 14, Montour Falls

As part of its mission, S.C.O.P.E. is inviting candidates for countywide (local/state/federal) office to attend its October quarterly meeting as a “Meet the Candidates Night.” Candidates will be given the opportunity to make a few brief remarks and answer questions from the membership. This will not be a debate but, rather, a chance for interested persons to interact with candidates directly.

If a particular candidate cannot attend and speak, his or her designated surrogate may do so.

Candidates invited include those persons running for: Schuyler County Treasurer, County Legislature, New York State Senate, New York State Assembly, U.S. Congressional District NY-23 and others.

Members of the public are invited and encouraged to attend.

<https://scopeny2a.org/Schuyler>

The Issues Dominating the 2022 General Election for New York Governor

The New York political conversation is being dominated in part by reactions to major U.S. Supreme Court decisions issued in June, as well as other national trends and their local impacts, and how New York policy-makers are responding on issues including... gun control, crime and public safety....

The sitting governor, Hochul has been championing her achievements over the past year, including... a New York-specific concealed carry gun law. Zeldin has largely been criticizing Hochul...Hochul emphasizes Zeldin’s stances on guns

<https://www.gothamgazette.com/state/11595-issues-2022-general-election-new-york-governor>

New gun legislation impacts ammunition sales across New York

Now that these changes are officially in effect, customers are frustrated and still confused by all the hoops they have to jump through.

"Realistically, you can travel to a different state and pick up ammunition," Buffalo resident Spencer Rhyans told 2 On Your Side. "You don't need a license or anything. Criminals aren't stupid as much as we portray them to be. They know how to get around the system."

Retailers still have work to do. They have only a month left to adjust to these new policies as hunters in Western New York prepare to head out in just a couple of weeks.

<https://www.wgrz.com/article/news/local/new-gun-legislation-impacts-ammunition-sales-nys-wny-buffalo-cheektowaga/71-a91f140e-097c-42dd-82d8-b34c837e6997>

NYS gun law revises ammunition sales process

the state of New York is now requiring ammunition sellers to record information about any ammo purchases. That includes not just the customer's name, address, date of birth, and type and quantity of ammunition, but also their occupation.

"Any ammunition including anything, shotgun, yeah the same process," Dean Adamski of DD's Ranch firearms store said. "You got to take all the information down. How much ammo they bought, what they bought, caliber, gauge. Whatever it is, all the information has to be taken, no matter if its shotgun, rifle, anything."

Adamski estimates that ammunition purchases represent about 20 to 30 percent of his business. And while some types have been hard to get with apparent manufacturer supply chain issues, he is also worried that come next September of 2023 the state, once it actually pays for a workable database system, will start requiring a background check for people purchasing ammunition.

He is also concerned it may have some kinks for gun dealers just like when the National Instant Criminal Background Check System for gun purchases went into effect in 1998.

"Hunting season comes up, you know people are going to have to deal with the current rules if they want their ammo. We have to take their information. What scares me more is hunting season next year, there's a background check system," Adamski said.

He added: "How is the system going to work? Is it going to be if they can't determine right there, do they put them on hold? Do they deny? Is it going to cancel out a sale? Are people going to get aggravated? Or are people just going to go to Pennsylvania? Because it's certainly not illegal to go to another state. We're close enough to buy their ammunition. It's definitely not going to help. I agree on background checks with the guns, OK, but ammunition, that's getting pretty invasive."

Here is one additional point on ammunition. Adamski says starting in December under state business law, gun dealers will have to keep their ammunition for sale in locked display cabinets.

<https://www.wgrz.com/article/news/state/new-york-gun-law-revises-ammunition-sales-process/71-6e47f7fd-86f3-44ab-9935-fa76510547fa?fbclid=IwAR112vcDrHMTgMqS0K7VClyzsSDRFfebKTXAXHDIndB3ICXJzRhTihvXXAO>

N.Y.'s New Ammo Registry Threatens Conservation

Gov. Hochul's new gun law includes greatly expanding the list of "sensitive areas" where concealed carry permit holders can carry guns. It mandates permit applicants' social media accounts to be "examined for suspicious activity." It creates a statewide registry to collect and maintain a database of who is buying ammunition. It's having a chilling effect.

New York state receives significant federal funds each year for wildlife management and conservation projects thanks to the Pittman-Robertson excise tax on firearms and ammunition – paid by the firearm and ammunition manufacturers. That has totaled more than \$15 billion for conservation since 1937. For ammunition and long guns like shotguns and rifles, it's 11 percent. On handguns, the tax is 10 percent. In 2018, the Empire State received \$28 million. In Fiscal Year 2020, the total was \$23.9 million, according to Department of the Interior (DOI) figures. Last year, funding back to New York totaled more than \$30 million dollars.

Given the outsized amount of ammunition needed by law-abiding gun owners, a reduction in ammunition purchases predicts declines in conservation dollars coming back to the state.

Pittman-Robertson excise tax apportionments to the states are based on geography and the number of hunting licenses sold. Gov. Hochul's new gun control laws are already suppressing ammunition sales and appear to be withering away hunting licenses too.

If the same chilling effect that's happening to gun and ammunition sales is to be repeated for hunting license sales, that would directly eat into conservation efforts funded by Pittman-Robertson excise taxes.

New York is home to several state and national parks that benefit from the millions of dollars of conservation funding, supported by outdoorsmen and women. That includes the more than 6 million-acre Adirondack Park north of Albany, comprising almost one-third of New York's geography. Numerous environmental and conservation groups advocate for healthy wildlife and robust conservation efforts in the park, but few have said a word about the devastating effects Gov. Hochul's gun restrictions will have on them – specifically the ammunition registry.

<https://www.nssf.org/articles/n-y-s-new-ammo-registry-threatens-conservation/>

Summer camp becomes a victim of New York's gun safety law

Scout councils will likely have to sell off all of their guns, ammunition and shooting equipment. That's because scouts at camps in New York state can no longer earn the rifle merit badge or shoot sporting clays due to the legislation created and passed in June by the legislature and Governor Hochul in response to the mass shooting in Buffalo and the U.S. Supreme Court's decision with *NYSRA vs. Bruen*.

You've likely read plenty about that law and the state banning possession of a handgun, rifle or shotgun at what the state now considers "sensitive areas," which seemingly covers all public places. Among those places, and clearly called out in the language of the law, are summer camps.

This law, which went into effect on Sept. 1, will destroy a popular part of summer camp for New York scouts ... and it could destroy those camps as well. Other states don't have such limitations; to be able to continue their participation in the shooting sports (again, a key selling point of the encampment experience), many troops will attend summer camps in those locations. Pennsylvania, Ohio and West Virginia are close drives, especially if a troop is already accustomed to a longish drive to Massawepie in the Adirondacks. New York's scout camps, which are already operating on shoestring budgets and stressful hopes of being in the black every year, will lose precious clientele and money.

https://www.lockportjournal.com/opinion/bob-confer-summer-camp-becomes-a-victim-of-new-york-gun-safety-law/article_1c64c310-3393-11ed-8abf-bffd33b9699d.html

New York State's new gun law impacts 9/11 ceremony

New York state's recent gun law changes impacted the Chautauqua County American Legion's annual Sept. 11 terrorist attacks remembrance ceremony.

Commander Mattie McIntyre of the American Legion Post 434 said the American Legion Honor Guard was forced to perform a three-volley salute from across the street from the county courthouse at the Crosby Market due to new gun restrictions on public spaces passed by the state Legislature in July and signed into law shortly thereafter by Gov. Kathy Hochul.

"The recent laws signed into effect by the New York state governor now prevent any weapons, including ceremonial weapons, to be fired on public property," McIntyre said. "Not only does this law affect ceremonies such as the 9/11 ceremony, but also will prevent Memorial Day ceremonies, and most importantly, military honors at the graveside of our veterans."

<https://www.observertoday.com/news/page-one/2022/09/new-york-states-new-gun-law-impacts-9-11-ceremony/>

gun-free zones don't 'make sense' with experts calling strategy 'low-hanging fruit'

Law enforcement experts are raising their eyebrows over New York City's "gun free zone" law, which established a perimeter lined with laminated signs prohibiting the public from carrying firearms within, as one longtime police executive said the new legislation doesn't "make sense" and is "extremely confusing."

"I didn't like the idea of setting up special zones where permitted gun carrier holders could not go," said Terence Monahan, formerly the highest-ranking uniformed member of the New York Police Department.

Monahan further called it "an extremely confusing law," and said police should be focusing instead on the illegal gun-holders.

"In 40 years of policing, the main thing I always wanted was that illegal gun carrier – someone who never had a permit, someone who's out there looking to do harm with that gun," he said. "That's what the police need to focus on.

a criminal who wants to bring a gun into Times Square "is going to carry that gun into Times Square, same as he is going to carry it into a development somewhere in Brooklyn in [Bedford-Stuyvesant]."

"You're not going to prevent that based on these laws, but you will prevent a law-abiding citizen who rightly got his permit from walking into that area," he went on.

<https://www.foxnews.com/us/nycs-gun-free-zones-dont-make-sense-experts-calling-strategy-low-hanging-fruit>

New lawsuit focuses on NY's gun ban for some public and private property

A new lawsuit has been filed in the United States Court for the Western District of New York that focuses on the state's latest gun law.

On Sept. 1, Senate bill S51001 went into effect. The bill expanded the number of sensitive and restricted locations where guns could be carried.

The plaintiffs of the lawsuit are two western New Yorkers, John Boron and Brett Christian. Additionally, the Firearms Policy Coalition and Second Amendment Foundation are plaintiffs in the lawsuit.

The listed defendants are NYS Police Superintendent Kevin Bruen and Erie County District Attorney John Flynn.

The lawsuit alleges that the law essentially creates a no concealed guns default in a variety of public and private spaces.

"[The state] did that in response to the Supreme Court's broad decision from June of this year," attorney and legal analyst Barry Covert said. "The Bruen decision stated that sensitive uses would be upheld, such as government buildings, courthouses, and schools."

Covert believes the state could have trouble defending against this lawsuit, mainly because the new additions to the list may not have precedent with the court.

"They have to justify it historically and show that there has been a historical recognition of all these areas of sensitive uses," Covert said.

The lawsuit claims that the new law designating sensitive locations goes "far beyond any constitutionally relevant historical justification. It goes on to say the new law makes a mockery of the recent Supreme Court decision."

Covert says this is one of many lawsuits the state will likely be facing as it continues to challenge federal gun laws, which the taxpayers will be paying for.

"Millions and millions of dollars to defend a statute that clearly goes way beyond what the United States Supreme Court recently indicated would be honored as a restrictive statute," Covert said.

<https://www.wgrz.com/article/news/local/new-york-state-lawsuit-focuses-gun-ban-some-public-private-property-nys/71-5540167a-55ff-4813-9053-fce39a4fac53>

FPC Files for Injunction Against New York "Sensitive Location" Handgun Carry Bans

Firearms Policy Coalition (FPC) announced Sept 28 that it has filed a motion for preliminary injunction in *Boron v. Bruen*, its lawsuit challenging New York's "sensitive location" handgun carry bans in public parks, public transportation, and all private property without express consent.

"Under S51001, 'ordinary, law-abiding citizens,' like and including Plaintiffs, are again prevented from carrying handguns in public for self-defense in almost all corners of the State, except in what Governor Hochul said were, 'probably some streets,'" argues the motion. "S51001 makes a mockery of the Supreme Court's holding in *Bruen*, which reaffirmed that personal security extends to more than just 'those . . . who work in marbled halls, guarded constantly by a vigilant and dedicated police force,' but also emphatically extends to include ordinary, law-abiding Americans 'outside the home.'"

"The New York Legislature appears to think that when the Supreme Court closed the door on New York's may issue permit regime it opened a window for equally onerous location restrictions," said FPC Director of Legal Operations Bill Sack. "Today's motion for preliminary injunction is the opportunity for the Court to remind New York lawmakers that those windows are nailed shut by the Constitution."

<https://www.firearmspolicy.org/fpc-files-for-injunction-against-new-york-sensitive-location-handgun-carry-bans#.YzW0jAYqFLE.twitter>

Jewish Group To Sue New York For Banning Guns In Houses Of Worship

The New York State Jewish Gun Club plans to sue New York for banning firearms in places of worship, calling it "unconstitutional" in an interview with the Daily Caller News Foundation.

The law, signed by Democratic Gov. Kathy Hochul, also bans guns from most public and private businesses and requires that applicants for a concealed carry permit must provide their social media history to verify their "character and conduct" is suitable enough to own a gun.

"The Second Amendment is not a second class right," Jewish Gun Club founder Tzvi Waldman told the DCNF.

“New York is in the midst of a massive crime wave, we have seen in particular a sudden rise in violent hate crimes against Orthodox Jews,” Gavin Wax, president of the New York Young Republicans Club, added in an interview with the DCNF.

“The average Orthodox Jew spends up to 20 hours a week in shul (synagogue). So for us, not being able to be protected in shul means more than the average person who goes to church once a week,” Waldman told the Bronx’s News 12.

Hate crimes committed against Jews make up more than half of all religion-based hate crimes in the U.S., FBI statistics show. New York has witnessed a more than 300% increase in antisemitic hate crimes in the first three months of 2022 compared with last year

<https://dailycaller.com/2022/09/07/jewish-group-contesting-gun-ban/?fbclid=IwAR2YHn-Q3Sf8ZaMdzreXddhjgOcoKsusETECwyUa-OegKN4rhUbQ7LVrSM>

Second Amendment Foundation Files Federal Lawsuit Challenging New NY Gun Control Law

The Second Amendment Foundation has filed a federal lawsuit challenging a new gun control law hastily adopted in New York State following the Supreme Court’s nullification of its previous concealed carry statute that required “proper cause,” alleging the state’s new statute is just as unconstitutional as the previous law.

Joining SAF is the Firearms Policy Coalition, Inc., and two private citizens, Brett Christian and John Boron. Defendants are Kevin Bruen, superintendent of the New York State Police, and John J. Flynn, Erie County District Attorney, in their official capacities. The case is known as Boron v. Bruen. It was filed in U.S. District Court for the Western District of New York.

According to SAF founder and Executive Vice President Alan M. Gottlieb, passage of Senate Bill S 51001 by state lawmakers in Albany “replaced one unconstitutional licensing scheme with another.”

The new measure bans the lawful, licensed carry of firearms in so-called “sensitive places,” and presumptively most property in the state, creating a de facto ban on firearms carry for personal protection. As a result, SAF and its partners are asking for Declaratory and Injunctive Relief from the court.

http://www.thegunmag.com/saf-files-federal-lawsuit-challenging-new-ny-gun-control-law/?fbclid=IwAR2umH6srXy_aEmVfy9snYr1IYWAvDSIEtQqi9qyQh4-EH34PKZ9SKR-akU

Syracuse federal judge called NY gun law illegal. Latest case may give him chance to strike it down

A federal judge in Syracuse, who has already declared that he believes New York’s latest gun control law is unconstitutional, may now get the chance to overturn it.

U.S. District Judge Glenn Suddaby last month rejected a lawsuit seeking to overturn the state law, saying he didn't have the power to strike down the state's latest gun-control measure because, among other things, it hadn't gone into effect yet.

But he did make it clear that the state's law – including a “good moral character” requirement, a mandate to disclose social-media accounts and an expansive list of banned locations – was problematic.

“What law-abiding, responsible citizens of New York State are left with is a statute that is...plagued by a ‘profound Second Amendment problem,’” Suddaby wrote in his Aug. 31 decision.

On Thursday, Suddaby got another request to strike down the law from the same gun group that spearheaded the earlier case. The plaintiffs argue that the judge now has the power to rule the law violates the Second Amendment.

They are seeking a preliminary injunction to temporarily halt the new state law. From various court motions, it appears the judge may be prepared to move quickly on that request.

The latest lawsuit adds some additional details about specific individuals challenging the new law

<https://www.syracuse.com/crime/2022/09/syracuse-federal-judge-called-ny-gun-law-illegal-latest-case-may-give-him-chance-to-strike-it-down.html>

Syracuse federal judge remains skeptical of NY gun law as he considers whether to quash it

A federal judge in Syracuse on Thursday expressed doubt about the constitutionality of several parts of New York's recent gun law as he heard arguments over whether to block its enforcement.

Why can't religious congregations decide whether or not to allow guns into their houses of worship? Why are guns presumptively banned from private property without explicit permission from owners? How can the government order people to provide their social media accounts to apply for a gun license?

Those were among the concerns that U.S. District Judge Glenn Suddaby honed in on during hourlong arguments Thursday in Syracuse over whether he should temporarily ban the state from enforcing the new gun law, which took effect Sept. 1.

The judge is expected to rule anytime after telling the parties in the noon hour that he would issue a written decision.

During court, the judge voiced similar concerns to those he shared in his written opinion last month. Then he wrote that parts of the law were unconstitutional but said he couldn't do anything about it yet. Those legal issues remained unresolved Thursday, with the state arguing that there still was no standing to challenge the law.

<https://www.syracuse.com/crime/2022/09/syracuse-federal-judge-remains-skeptical-of-ny-gun-law-as-he-considers-whether-to-quash-it.html>

In blow to NRA, judge allows New York attorney general to seek court-imposed monitor and to demand Wayne LaPierre forfeit millions

- A court ruling Thursday lets New York's attorney general continue to seek stiff penalties from the NRA.
- AG Letitia James is suing CEO Wayne LaPierre for millions in back salary; she also wants the NRA subjected to financial monitoring.
- LaPierre's lawyer likened James' push for a monitor to Alabama's AG monitoring the NAACP in the '50s.

<https://www.businessinsider.com/nra-wayne-lapierre-letitia-james-ny-gun-control-court-ruling-2022-9>

GOA Discovers Gun Control Hidden Inside Funding Bill

Here are the ten gun control provisions hidden in the FY 2023 Commerce, Justice, Science Appropriations bill:

1. Massive ATF Budget Increase to Facilitate Biden's Pistol Ban
2. Gun Registration Funding
3. Gun Confiscation Law Funding
4. Financial Benefits for Families of Deceased ATF Agents Killed or Injured on the Job while Enforcing Gun Control
5. Ammunition Background Check Study
6. Gun Control Research, Unbound by the Dickey Amendment
7. Anti-gun Community Violence Interventions
8. "Domestic Violence Firearms Lethality Reduction Initiative"
9. "Violent Anti-Government Ideology" Research
10. Gun Control Earmarks

<https://www.gunowners.org/na09192022/>

Visa, Mastercard, AmEx to categorize gun store sales separately

Visa said it would apply the International Organization for Standardization's new merchant code to gun shop sales. The new IOS code was announced on Friday. Previously, gun store sales were labeled as "general merchandise."

"Following ISO's decision to establish a new merchant category code, Visa will proceed with next steps, while ensuring we protect all legal commerce on the Visa network in accordance with our long-standing rules," Visa said in a statement.

The move by Visa signals a major victory for gun control advocates who argue that a separate category for gun store sales will help track suspicious quantities of firearm sales that could potentially lead to a mass shooting.

But gun rights advocates and gun lobbyists have said categorizing gun shop sales would be unfair to the industry given that most firearm sales do not result in mass shootings.

Visa, which acts as a middleman between merchants and banks, is the largest payment network. And with three major payment processors all electing to label gun store sales, there will now likely be pressure placed on banks as card issuers to decide if they will permit purchases categorized as gun shop sales on their issued cards.

New York City officials and pension funds had pushed the ISO and banks to adopt the new code on gun shop sales.

Two of the largest public pension funds in the U.S., which are located in California and New York, have put pressure on the country's largest credit card companies to adopt separate sales codes for gun sales.

<https://www.foxbusiness.com/economy/visa-mastercard-amex-categorize-gun-store-sales-separately>

State AGs question legality of coding gun, ammo purchases with letter to credit card companies

A group of 21 state attorneys general have written a letter to the CEOs of three credit card companies that questions the legality of their decision to code transactions at gun stores differently than other purchases.

The letter came after three credit card companies – American Express, Visa and Mastercard – decided to adopt a special code for transactions at gun stores which were previously labeled as general merchandise, a move decried by the 21 attorneys general.

The attorneys general ... said the new code could have a chilling effect on the Second Amendment rights of buyers.

In the letter, the attorneys general said the new code could be used for such purposes as “infringing upon consumer privacy, inhibiting constitutionally protected purchases by selectively restricting the use of your payment systems, or otherwise withholding your financial services from targeted ‘disfavored’ merchants.

The letter also says that the code will create a database of gun purchasers that could be leaked or hacked by those opposed to gun rights protected by the Second Amendment.

The letter was signed by the attorneys general of Alabama, Alaska, Arkansas, Arizona, Florida, Georgia, Indiana, Kansas, Kentucky, Mississippi, Missouri, Nebraska, New Hampshire, Ohio, Oklahoma, South Carolina, Texas, Utah, Virginia, Wyoming and West Virginia.

<https://www.reviewonline.com/uncategorized/2022/09/state-ags-question-legality-of-coding-gun-ammo-purchases-with-letter-to-credit-card-companies/>

The Largest-Ever Survey of American Gun Owners Finds That Defensive Use of Firearms Is Common

The largest and most comprehensive survey of American gun owners ever conducted suggests that they use firearms in self-defense about 1.7 million times a year. It also confirms that AR-15-style rifles and magazines that hold more than 10 rounds, frequent targets of gun control legislation, are in common use for lawful purposes, which the Supreme Court has said is the test for arms covered by the Second Amendment.

The online survey, which was conducted by Centiment in February and March of 2021, was based on a representative sample of about 54,000 adults, 16,708 of whom were gun owners. Georgetown University political economist William English, who commissioned the survey as part of a book project, presents its major findings in a recent paper available on the Social Science Research Network.

<https://reason.com/2022/09/09/the-largest-ever-survey-of-american-gun-owners-finds-that-defensive-use-of-firearms-is-common/>

Americans Own Over 415 Million Firearms

There's a new survey aimed at determining patterns of gun ownership and defensive gun use, from Prof. William English at the Georgetown University. It's much larger than most other such surveys, with over 54,000 adult American respondents, of whom over 16,700 personally owned guns.

"Overall, Americans own in excess of 415 million firearms, consisting of approximately 171 million handguns, 146 million rifles, and 98 million shotguns."

"30.2% of gun owners, about 24.6 million people, have owned an AR-15 or similarly styled rifle, and up to 44 million such rifles have been owned."

"48.0% of gun owners, about 39 million people, have owned magazines that hold over 10 rounds, and up to 542 million such magazines have been owned."

<https://reason.com/volokh/2022/09/12/americans-own-over-415-million-firearms/>

Defensive Gun Use Among Blacks, Whites, Hispanics, Asians, and American Indians

Gun ownership was reported by:

- 25.4% of black respondents.
- 28.3% of Hispanic respondents.
- 19.4% of Asian respondents.
- 34.3% of white respondents.

38.2% of American Indian respondents (information not in report, but supplied to me separately by Prof. English).

But black and Hispanic gun owners report a higher rate of defensive use of the guns they do own than do whites (and the differences is statistically significant); defensive uses were reported by

- 44.3% of black gun owners.
- 39.3% of Hispanic gun owners.
- 26.0% of Asian gun owners.
- 29.7% of white gun owners.
- 47.7% of American Indian gun owners.

<https://reason.com/volokh/2022/09/13/defensive-gun-use-among-blacks-whites-hispanics-asians-and-american-indians/#more-8203058>

Are the Media Making Mass Shootings Worse? Yes, according to a growing body of research.

Is the press part of the problem? A growing body of research says yes.

"This is learned behavior and the media coverage is leading more people to learn it and to copy it," says University of Alabama criminologist Adam Lankford, who has studied mass killers for more than a decade. "The more victims they kill, the more fame and attention they get. They're being incentivized by the media coverage to be as destructive as possible."

"There seems to be too much demand for fame in America," Lankford writes in one paper, "and not enough supply."

One of Lankford's studies found that "winning a Super Bowl or Academy Award garnered less media attention than committing a high-profile mass killing." Perpetrators get pictured more on front pages than do their individual victims, and there's "a strong correlation between the number of victims harmed in these attacks and the amount of media attention that perpetrators receive."

It's not just Lankford saying this.

A 2017 FBI report says the "dominance of 24/7 media coverage...perpetuates [the mass shooting phenomenon] and allows it to grow and evolve" and suggests "news media should refrain from naming the assailants, from posting their photographs, videos and communications, and from publishing detailed investigations into their lives and motives." More than a hundred researchers have joined Lankford in signing an open letter, which asks major media to adopt new norms for covering mass killings, such as not naming them or publishing pictures of them.

<https://reason.com/video/2022/09/16/is-the-media-making-mass-shootings-worse/>