

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF LANCASTER

**JOHN CRUMP,
GUN OWNERS OF AMERICA, INC.,
GUN OWNERS FOUNDATION,
VIRGINIA CITIZENS DEFENSE LEAGUE, and
VIRGINIA CITIZENS DEFENSE FOUNDATION,**

Plaintiffs,

v.

Case No. _____

**COLONEL JEFFREY S. KATZ,
In His Official Capacity as
Superintendent of the Virginia State Police
7700 Midlothian Turnpike
North Chesterfield, VA 23235,**

Defendant.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

COME NOW Plaintiffs, by counsel, and move this Court for:

(1) a declaratory judgment pursuant to Va. Code § 8.01-184 finding that:

- (i)** Va. Code § 18.2-308.2:2(F)(4)(1)-(7) (defining “assault firearms”);
- (ii)** Va. Code § 18.2-287.4:1 (prohibiting the import, sale, manufacture, purchase, or transfer of so-called “assault firearms”);
- (iii)** the associated penalties and derivative crimes contained in Va. Code §§ 18.2-308.09(1), 18.2-308.1:9, 18.2-308.2:1, 18.2-308.2:2(A), and 18.2-308.2:3;
- (iv)** Va. Code § 18.2-308.2:5(E) (duplicatively prohibiting the willful and intentional purchase and sale of “assault firearms” in exchange for anything of value);

- (v) Va. Code § 18.2-287.4 (prohibiting the public carry of “assault firearms”);
- (vi) Va. Code § 18.2-309.1 (defining, and prohibiting the import, sale, barter, transfer, or purchase of “large capacity ammunition feeding devices”); and
- (vii) Va. Code § 19.2-386.28 (providing for the forfeiture of prohibited “assault firearms” and “large capacity ammunition feeding devices”) (collectively, the “Challenged Statutes”);

are unconstitutional under Article I, Section 13 of the Virginia Constitution, insofar as they prohibit the importation, sale, manufacture, purchase, barter, transfer, and public carry of pejoratively named “assault firearms” and “large capacity ammunition feeding devices” after July 1, 2026;

(2) a declaratory judgment pursuant to Va. Code § 8.01-184 finding that:

- (i) Va. Code §§ 18.2-308.2:2(F)(4)(2) and 18.2-308.2:2(F)(4)(4) (prohibiting certain firearm features that “protrude[] conspicuously”);
- (ii) Va. Code § 18.2-308.2:2(F)(4)(3) (prohibiting barrel “shroud[s]” that fully or partial “encircle[]” a barrel); and
- (iii) Va. Code § 18.2-308.2:2(F)(4)(5) (prohibiting shotguns “with a revolving cylinder”) (also the “Challenged Statutes”);

are unconstitutionally vague as applied to certain firearms, in violation of the right to due process under Article I, Section 11 of the Virginia Constitution;

(3) a declaratory judgment pursuant to Va. Code § 8.01-184 finding that, irrespective of the Challenged Statutes’ unconstitutionality:

- (i) multicaliber magazines that may qualify as “large capacity ammunition feeding devices” for one caliber nevertheless may be imported, sold, bartered, transferred,

or purchased under Va. Code § 18.2-309.1 if they are capable of holding a maximum of 15 or fewer rounds of a different caliber of ammunition;

(ii) Va. Code § 18.2-309.1 allows individuals to manufacture and subsequently possess “large capacity ammunition feeding devices” from raw materials, kits, and component parts; and

(iii) Va. Code § 18.2-308.2:2(F)(4)(4)’s restriction of shotguns with “one of the following characteristics” does not include shotguns with *more than one* such characteristic;

(4) a temporary and then permanent injunction pursuant to Va. Code § 8.01-620 *et seq.* enjoining the Superintendent of the Virginia State Police and his successors, officers, agents, servants, employees, all persons in active concert or participation with him who receive actual notice of the injunction(s), and all law enforcement divisions, agencies, and officers with notice of such injunction(s), from enforcing the Challenged Statutes; and

(5) such further relief as the Court may deem appropriate, and in support thereof state as follows:

INTRODUCTION

1. Since 1776, the Virginia Constitution has provided “[t]hat a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defense of a free state.” Va. Const. art. I, § 13.

2. In a 1971 amendment, the words “therefore, the right of the people to keep and bear arms shall not be infringed” were added after the militia clause. Va. Const. art. I, § 13.

3. By that 1971 amendment, Virginians sought to clarify that Article I, Section 13 is *at least* coextensive with the Second Amendment’s protections in the U.S. Constitution. Virginians

understood their 1971 amendments to Article I, Section 13 to codify no new rights, but rather simply to ensure, at minimum, interpretive parity with the federal Second Amendment.

4. Consequently, following *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022), nearly all Virginia courts¹ to have heard Article I, Section 13 challenges have applied *Bruen*’s textual and historical methodology to ascertain the scope of the Virginia Constitution’s right to keep and bear arms.

5. Plaintiffs do not bring any claim or seek any relief under the Second Amendment to the U.S. Constitution. Rather, they proceed only under Article I, Section 13 of the Constitution of Virginia.

6. Nevertheless, Second Amendment jurisprudence is instructive on the meaning of Article I, Section 13, as numerous Virginia courts have recognized. *See, e.g., Stickley v. City of Winchester*, 110 Va. Cir. 300, 318 (Winchester 2022) (“it is appropriate for this Court to examine Second Amendment jurisprudence to determine whether the [challenged] provisions ... violate Article I, Section 13”); *Wilson v. Hanley*, 116 Va. Cir. 425, 431 (Lynchburg 2025) (“*Bruen* set forth a new test for evaluating the constitutionality of firearm regulations”).

7. Therefore, Plaintiffs refer to the Second Amendment and federal case law only with an eye towards interpreting the text and context of Article I, Section 13.

8. Like Article I, Section 13, the Second Amendment provides that “the right of the people to keep and bear Arms, shall not be infringed.”

9. In *District of Columbia v. Heller*, 554 U.S. 570, 581 (2008), the U.S. Supreme Court explained that the term “Arms” means “[w]eapons of offence, or armour of defence,” “any thing

¹ *But see Commonwealth v. Verrocchio*, 113 Va. Cir. 369 (Culpeper Cnty. 2024) (upholding a ban on firearm possession by an individual subject to a protective order, relying only in part on “United States Supreme Court jurisprudence”).

that a man wears for his defence, or takes into his hands, or useth in wrath to cast at or strike another,” and includes “all firearms,” as originally understood.

10. But limiting “the protections of the right only to muskets and sabers” in existence at the time of the Second Amendment’s adoption not only would be “mistaken,” *United States v. Rahimi*, 602 U.S. 680, 692 (2024), but also would “border[] on the frivolous.... We do not interpret constitutional rights that way.” *Heller*, 554 U.S. at 582.

11. Indeed, “[j]ust as the First Amendment protects modern forms of communications, and the Fourth Amendment applies to modern forms of search, the Second Amendment extends, prima facie, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding,” and this “general definition covers modern instruments that facilitate armed self-defense.” *Bruen*, 597 U.S. at 28.

12. Ultimately, “we use history to determine which modern ‘arms’ are protected by the Second Amendment,” and “the government must demonstrate that [its] regulation is consistent with this Nation’s historical tradition of firearm regulation.” *Bruen*, 597 U.S. at 28, 17.

13. Applying that framework here easily resolves this case. The General Assembly has banned so-called “assault firearms” and “large capacity ammunition feeding devices.” Despite these pejorative monikers affixed by the legislature, such weapons are quintessentially bearable “Arms,” and thus at the outset they enjoy a strong presumption of constitutional protection under Article I, Section 13.

14. Therefore, to justify their regulation, Defendant “must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation.” *Bruen*, 597 U.S. at 17.

15. Defendant cannot meet that standard with respect to the Challenged Statutes.

16. But even if he could, a relevant historical tradition of regulation “provide[s] no justification for laws restricting ... weapons that are unquestionably in common use today.” *Bruen*, 597 U.S. at 47. Bans on “popular weapon[s]” are simply “invalid,” *Heller*, 554 U.S. at 629, because “the traditions of the American people ... demand[] our unqualified deference.” *Bruen*, 597 U.S. at 26. Indeed, *Heller* already foreclosed “prohibit[ing] ... an entire class of ‘arms’ that is overwhelmingly chosen by American society for [a] lawful purpose.” *Heller*, 554 U.S. at 628.

17. The items banned by the Challenged Statutes are unquestionably in “common use” today – they are ubiquitous among American gun owners. In fact, “‘military style’ assault weapons, ... includ[ing] AR-15 rifles, AK-47 rifles, and .50 caliber sniper rifles,” are “both widely legal and bought by many ordinary consumers,” and “[t]he AR-15 is the most popular rifle in the country.” *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280, 297 (2025) (unanimous opinion); *see also Staples v. United States*, 511 U.S. 600, 612 (1994) (semi-automatic rifles “traditionally have been widely accepted as lawful”); *Caetano v. Massachusetts*, 577 U.S. 411, 417 (2016) (Alito & Thomas, JJ., concurring in the judgment) (“semiautomatic pistols” are “weapons most commonly used today for self-defense”). Likewise, so-called “large capacity ammunition feeding devices” “number[] in the hundreds of millions, accounting for about half of the magazines in the hands of our citizenry, and they come standard with the most popular firearms sold in America today.” *Benson v. United States*, 2026 D.C. App. LEXIS 80, at *2 (Mar. 5, 2026), *vacated, reh’g en banc granted* (D.C. Apr. 22, 2026); *see also Duncan v. Bonta*, 695 F. Supp. 3d 1206, 1214 (S.D. Cal. 2023) (“[L]arger magazines number over one hundred million. For handguns, the most popular sizes range up to 17 rounds; the most popular size for rifles is 30 rounds. ... There is no American tradition of limiting ammunition capacity...”), *rev’d on other grounds*, 133 F.4th 852 (9th Cir. 2025).

18. Moreover, numerous courts, including Virginia courts, already have held the obvious – that acquiring a firearm is conduct protected by the enumerated right to keep and bear arms. Indeed, “[t]he right to possess firearms for protection implies a *corresponding right to acquire* and maintain proficiency in their use; the core right wouldn’t mean much without the training and practice that make it effective.” *Lynchburg Range & Training v. Northam*, 2020 Va. Cir. LEXIS 57, at *7 (Lynchburg 2020) (emphasis added) (citing *Ezell v. City of Chicago*, 651 F.3d 684, 704 (7th Cir. 2011)); *see also Jackson v. City & County of San Francisco*, 746 F.3d 953, 967 (9th Cir. 2014) (emphasis added) (“Thus ‘the right to possess firearms for protection implies a corresponding right’ *to obtain* the bullets necessary to use them.”); *Teixeira v. County of Alameda*, 873 F.3d 670, 677-78 (9th Cir. 2017) (“[T]he core Second Amendment right to keep and bear arms for self-defense ‘wouldn’t mean much’ without the ability to acquire arms.”); *Andrews v. State*, 50 Tenn. 165, 178 (1871) (“The right to keep arms, necessarily involves the right to purchase them, ... and to purchase and provide ammunition suitable for such arms....”).

19. Indeed, “[c]onstitutional rights ... implicitly protect those closely related acts necessary to their exercise.” *Luis v. United States*, 578 U.S. 5, 26 (2016) (Thomas, J., concurring in the judgment); *see also* Antonin Scalia & Bryan A. Garner, Reading Law: The Interpretation of Legal Texts 192 (2012) (“Authorization of an act also authorizes a necessary predicate act.”).

20. Any argument that the Challenged Statutes could escape constitutional scrutiny because they merely ban transfers, purchases, or sales – rather than possession – therefore fails immediately and completely.

21. Nor can Defendant meet his historical burden with respect to the Challenged Statutes’ ban on the public carry of “assault firearms.” The Supreme Court already has held that

there is no historical tradition of “prohibit[ing] the public carry of commonly used firearms for personal defense.” *Bruen*, 597 U.S. at 70.

22. All told, neither the General Assembly, the Governor, nor any court can second-guess the overwhelming preferences of the people of Virginia regarding the arms that they choose to acquire and bear. The Challenged Statutes should be declared unconstitutional, and their enforcement should be enjoined.

STATUTORY BACKGROUND

23. In January 2026, Senator Saddam Azlan Salim introduced SB749 in the Virginia Senate. Purporting to speak for “Virginians,”² Salim opined that “there are so many assault weapons in circulation”³ – too many, in his estimation – and that something had to be done about Americans’ access to these popular firearms.

24. As Salim explained: “I didn’t run on a lot of other issues ... I ran on the fact that we need to get an assault weapons ban, and that is exactly what we’ll be doing....”⁴

25. So, with the help of newly elected Democrat majorities in the Virginia House of Delegates and Senate, Salim’s SB749 passed both chambers in less than two months. Thereafter, Governor Spanberger returned SB749 to the General Assembly without her signature, recommending acceptance of two edited provisions. On April 22, 2026, the General Assembly “passed by” the Governor’s recommendations, returning SB749 to her as originally passed. And on May 14, 2026, SB749 became law with the Governor’s signature, with an effective date of July 1, 2026. A copy of SB749 is attached as Exhibit “A.”

² @SalimforVA, X (Jan. 21, 2026), <https://tinyurl.com/y6u9hwbs>.

³ Markus Schmidt, *Virginia Senate Panel Advances Gun Safety Bills Once Vetoed by Youngkin*, Va. Mercury (Jan. 27, 2026), <https://tinyurl.com/4zhxnk8j>.

⁴ Shirleen Guerra, *Assault-Style Firearm Bill Advances in Virginia Senate*, Ctr. Square (Jan. 27, 2026), <https://tinyurl.com/34e9vh5j>.

26. For the first time in Virginia’s history, SB749 enacts a sweeping features-based ban on what types of firearms and magazines Virginians may acquire, prohibiting the acquisition or transfer of the most popular firearms and magazines in the nation.

27. *First*, SB749 adds Va. Code § 18.2-287.4:1, which generally provides that “[a]ny person who imports, sells, manufactures, purchases, or transfers an assault firearm is guilty of a Class 1 misdemeanor.” *Id.* § 18.2-287.4:1(B). In addition to the normal penalties associated with a Class 1 misdemeanor, SB749 also adds Section 18.2-308.1:9, which imposes a three-year ban on *any* firearm possession by a person convicted of a misdemeanor “assault firearm” offense, and amends Section 18.2-308.09(1), which further makes such a person ineligible for a Concealed Handgun Permit. And in order to enforce these provisions on newly prohibited persons, SB749 amends Section 18.2-308.2:2 of the code, which adds a question to the Virginia State Police background check form for firearm dealers inquiring as to whether a person has been convicted of an “assault firearm” offense. SB749 then further penalizes those convicted of an “assault firearm” offense by amending Section 18.2-308.2:3, which prohibits anyone convicted of an “assault firearm” offense from being employed by a firearms dealer. Finally, SB749 amends Section 18.2-308.2:1, which creates a derivative Class 1 misdemeanor for the transfer of a firearm to a person convicted of an “assault firearm” offense.

28. Section 18.2-287.4:1 enumerates ten exceptions to its general prohibitions on “assault firearms.” Four of these exceptions protect various government agents and business activities and are not relevant here, as they do not reach ordinary Virginians like Plaintiffs. *See* Va. Code §§ 18.2-287.4:1(C)(i)-(iv). The remaining exceptions protect ordinary Virginians only in narrow circumstances, such as when they (1) sell pre-July 1, 2026 “assault firearms” to licensed dealers or out-of-state individuals; (2) temporarily transfer pre-July 1, 2026 “assault firearms” to

Federal Firearms Licensees or gunsmiths; (3) receive “assault firearms” via inheritance (conditioned on prior lawful possession by the decedent); (4) temporarily borrow “assault firearms” from a firing range for target shooting or training; (5) import into Virginia “assault firearms” lawfully purchased and possessed prior to July 1, 2026; and (6) gift “assault firearms” lawfully possessed prior to July 1, 2026 to spouses, children, parents, grandparents, and siblings of lawful owners. *Id.* §§ 18.2-287.4:1(C)(v)-(x).

29. *Second*, SB749 amends Va. Code § 18.2-308.2:2 to define the “assault firearms” prohibited by the new Section 18.2-287.4:1. To that end, Section 18.2-308.2:2(F)(4) enacts a convoluted seven-part definition that sweeps in most semi-automatic firearms. An “assault firearm” according to the new statute is:

1. A semi-automatic center-fire **rifle or pistol** with a fixed magazine capacity in excess of 15 rounds;
2. A semi-automatic center-fire **rifle** that has the ability to accept a detachable magazine, not including an attached tubular device designed to accept and capable of operating only with .22 caliber rimfire ammunition, and that has **one or more** of the following characteristics:
 - (i) a folding, telescoping, or collapsible stock;
 - (ii) a thumbhole stock or pistol grip that protrudes conspicuously beneath the action of the rifle;
 - (iii) a second handgrip or a protruding grip that can be held by the non-trigger hand;
 - (iv) a grenade launcher; or
 - (v) a threaded barrel capable of accepting (a) a muzzle brake, (b) a muzzle compensator, (c) a sound suppressor, or (d) a flash suppressor;
3. A semi-automatic center-fire **pistol** that has **two or more** of the following characteristics:
 - (i) a second handgrip or a protruding grip that can be held by the non-trigger hand;
 - (ii) the capacity to accept a magazine that attaches to the pistol outside of the pistol grip;
 - (iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the pistol with the non-trigger hand without being burned;
 - (iv) a threaded barrel capable of accepting (a) a sound suppressor, (b) a flash suppressor, (c) a barrel extender, or (d) a forward handgrip; or

- (v) a buffer tube, arm brace, or other part that protrudes horizontally behind the pistol grip and is designed or redesigned to allow or facilitate the firing of a firearm from the shoulder;
- 4. A semi-automatic **shotgun** that expels single or multiple projectiles by action of an explosion of a combustible material that has **one of** the following characteristics:
 - (i) a folding, telescoping, or collapsible stock;
 - (ii) a thumbhole stock or pistol grip that protrudes conspicuously beneath the action of the shotgun;
 - (iii) the ability to accept a detachable magazine;
 - (iv) a magazine capacity in excess of 15 rounds; or
 - (v) any characteristic of like kind as enumerated in clauses (i) through (iv);
- 5. A **shotgun** with a revolving cylinder;
- 6. A **firearm** that has the capacity to accept a belt ammunition feeding device; or
- 7. A **firearm** that has been modified to be operable as an assault firearm as described in subdivisions 1 through 6.

30. *Third*, SB749 amends Va. Code § 18.2-308.2:5 to provide that “[n]o person shall sell an assault firearm as defined in § 18.2-308.2:2 for money, goods, services, or anything else of value.” *Id.* § 18.2-308.2:5(E). Thus, “[a]ny person who willfully and intentionally (i) sells an assault firearm as defined in § 18.2-308.2:2 to another person or (ii) purchases an assault firearm as defined in § 18.2-308.2:2 from another person is guilty of a Class 1 misdemeanor.” *Id.*

31. Section 18.2-308.2:5 thus reiterates conduct already proscribed by Section 18.2-287.4:1(B), making it doubly illegal – *doubleplusungood*⁵ – to “willfully and intentionally ... sell[] ... or purchase[]” an “assault firearm.”

32. *Fourth*, enacted prior to SB749 on April 22, 2026, SB727 amends Va. Code § 18.2-287.4 to ban the public carry of “assault firearms.” As amended, Section 18.2-287.4 provides that “[i]t is unlawful for any person to carry an assault firearm as defined in § 18.2-308.2:2 on or about his person on any public street, road, alley, sidewalk, public right-of-way, or in any public park or any other place of whatever nature that is open to the public. ... Any person violating the provisions of this section is guilty of a Class 1 misdemeanor.” A copy of SB727 is attached as Exhibit “B.”

⁵ See George Orwell, 1984 (1949).

33. Section 18.2-287.4 as amended effectively bans the carry of all firearms defined as “assault firearms” on every street, sidewalk, park, trail, and – remarkably – “any other place of whatever nature that is open to the public.” This last phrase encompasses not just government-owned areas open to the public, but all private property held open to the public, including stores, shopping centers, privately owned event locations, and ironically, even gun shops where firearms are sold.

34. Section 18.2-287.4 enumerates and incorporates by reference several exceptions to its public carry ban that are not relevant here. For instance, in addition to exempting various law enforcement and military personnel, Section 18.2-287.4 exempts “any person actually engaged in lawful hunting or lawful recreational shooting activities at an established shooting range or shooting contest.” There is no exception for Virginians who merely wish to exercise their right to bear arms, including for self-defense.

35. Moreover, although Section 18.2-287.4 adopts “[t]he exemptions set forth in § 18.2-308 ... mutatis mutandis,” none of those exemptions reaches the general public carry of firearms by ordinary Virginians, nor do they even exempt holders of Concealed Handgun Permits. *See* Va. Code §§ 18.2-308(B)-(D).

36. *Fifth*, SB749 adds Va. Code § 18.2-309.1, which generally provides that “[a]ny person who imports, sells, barter[s], transfer[s], or purchase[s] a large capacity ammunition feeding device is guilty of a Class 1 misdemeanor.” *Id.* § 18.2-309.1(B).

37. Section 18.2-309.1 then defines a “large capacity ammunition feeding device” to mean “a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 15 rounds of ammunition but does not include

an attached tubular device designed to accept and capable of operating only with .22 caliber rimfire ammunition.” *Id.* § 18.2-309.1(A).

38. Unlike Section 18.2-287.4:1(B)’s prohibition on “assault firearms,” Section 18.2-309.1(B)’s prohibition on “large capacity ammunition feeding devices” does not appear to restrict the “manufacture” of such a device, such as from a kit, separate parts, individual links from which a belt may be assembled, or raw materials.

39. Indeed, unlike firearms, which necessarily must have a “frame” or “receiver” constituting the legally regulated component, Section 18.2-309.1 does not identify any part of an “ammunition feeding device” that constitutes the device itself. Thus, so long as a person repairs or replaces parts of an “ammunition feeding device,” the repair or replacement parts cannot themselves be “ammunition feeding devices,” and so no unlawful “transfer” of an “ammunition feeding device” would occur. Plaintiffs therefore seek a declaratory judgment confirming this reading of Section 18.2-309.1, irrespective of its constitutionality under Article I, Section 13.

40. Like the “assault firearm” statute, Section 18.2-309.1 enumerates certain exceptions to its general prohibitions on “large capacity ammunition feeding devices.” Four exceptions protect various government agents and business activities and are not relevant here, as they do not reach ordinary Virginians like Plaintiffs. *See* Va. Code §§ 18.2-309.1(C)(i)-(iii), (vii). Three remaining exceptions protect ordinary Virginians, but only in narrow circumstances, such as when they (1) import into Virginia “large capacity ammunition feeding devices” lawfully purchased and possessed prior to July 1, 2026; (2) possess “large capacity ammunition feeding devices” permanently modified to hold 15 or fewer rounds; and (3) sell, barter, or transfer pre-July “large capacity ammunition feeding devices” to licensed dealers or out-of-state individuals. *See id.* §§ 18.2-309.1(C)(iv)-(vi).

41. Thus, unlike the “assault firearm” statute, Section 18.2-309.1 contains *no exception* allowing the gift of “large capacity ammunition feeding devices” between immediate family members, or even their transfer via inheritance to lawful heirs.

42. *Sixth*, SB749 amends Va. Code § 19.2-386.28 to provide that any firearms and magazines in violation of the Challenged Statutes “shall be forfeited to the Commonwealth and disposed of as provided....” *Id.*

43. Forfeiture is not the only penalty for violation of SB749’s provisions. Each provision punishes violations as a Class 1 misdemeanor, which may result in “confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both.” Va. Code § 18.2-11(a).

PARTIES

44. Plaintiff John Crump is a natural person, a United States citizen, and a resident of Loudoun County, Virginia. He is a law-abiding person and a gun owner, is eligible to acquire and possess firearms under Virginia and federal law, and has a valid Virginia Concealed Handgun Permit (“CHP”). He is a member of Organizational Plaintiffs Gun Owners of America, Inc. and Virginia Citizens Defense League, and he is a supporter of Organizational Plaintiffs Gun Owners Foundation and Virginia Citizens Defense Foundation.

45. Plaintiff Crump is a firearms journalist, YouTuber,⁶ and contributor to AmmoLand Shooting Sports News. As part of his professional activities, Plaintiff Crump frequently receives firearms and magazines from federally licensed manufacturers and dealers for review, including firearms and magazines now classified as “assault firearms” and “large capacity ammunition

⁶ See <https://www.youtube.com/@JohnCrumpLive>.

feeding devices” under the Challenged Statutes.⁷ For instance, Plaintiff Crump currently is in possession of preproduction magazines made by XTech Tactical of Gilbert, Arizona, which he is reviewing and testing. Likewise, OneHorse, a manufacturer of AR-15-style rifles in Brownstown, Indiana, has agreed to send an AR-15 rifle to Plaintiff Crump for testing and review after July 1, 2026, when the Challenged Statutes take effect.

46. Plaintiff Crump is neither current nor retired law enforcement and has no other government affiliation, nor does he hold a Federal Firearms License as a dealer, importer, or manufacturer, and so he does not qualify under any of the Challenged Statutes’ exceptions to the general prohibitions on acquiring and transferring “assault firearms” or “large capacity ammunition feeding devices.” Likewise, Plaintiff Crump does not qualify under any of the Challenged Statutes’ exceptions to the general prohibition on publicly carrying “assault firearms.” Plaintiff Crump wishes to sell, manufacture, purchase, acquire, transfer, and publicly carry “assault firearms” and “large capacity ammunition feeding devices,” including in order to review, study, test, and examine them, free from criminal liability under the Challenged Statutes. *See* Affidavit of John Crump (Exhibit “C”).

47. Plaintiff Gun Owners of America, Inc. (“GOA”) is a California non-stock corporation with its principal place of business in Springfield, Virginia. GOA is organized and operated as a nonprofit membership organization that is exempt from federal income taxes under Section 501(c)(4) of the U.S. Internal Revenue Code. GOA was formed in 1976 to preserve and defend the Second Amendment rights of gun owners. GOA has over two million members and supporters across the country, including tens of thousands in Virginia, many of whom reside within the jurisdiction of this Court.

⁷ *See* <https://www.ammoland.com/author/johncrump/>.

48. Like Plaintiff Crump, GOA's individual members and supporters wish to import, sell, manufacture, purchase, acquire, transfer, and publicly carry "assault firearms" and "large capacity ammunition feeding devices," free from criminal liability under the Challenged Statutes. GOA likewise maintains the Caliber Club, a membership and partnership program comprised of more than 5,000 gun stores and shooting ranges across the country, including many within Virginia. GOA's Caliber Club industry members face an artificially restricted marketplace and resultant losses of customers and sales revenue under the Challenged Statutes' ban on ubiquitous firearm products.

49. Finally, GOA suffers direct, organizational harm under the Challenged Statutes. As an organization, GOA has conducted and wishes to continue to conduct fundraising raffles of firearms, often including firearms now labeled "assault firearms," the proceeds of which fund the organization's activities. Similarly, GOA conducts and hosts "range days" and training events where staff, members, supporters, and the public can view, experience, learn about, and use firearms and magazines prohibited by the Challenged Statutes. Moreover, GOA possesses its own firearm magazines, which its staff maintain at various locations, including at GOA's headquarters in Virginia. GOA and its staff wish to continue to purchase, acquire, and transfer magazines that the Challenged Statutes prohibit. For each of these reasons, the Challenged Statutes harm GOA directly, causing GOA to suffer losses of membership revenue, along with the inability to conduct its activities and further its mission. *See* Affidavit of Erich Pratt (Exhibit "D").

50. Plaintiff Gun Owners Foundation ("GOF") is a Virginia non-stock corporation with its principal place of business in Springfield, VA. GOF was formed in 1983 and is organized and operated as a nonprofit legal defense and educational foundation that is exempt from federal income taxes under Section 501(c)(3) of the U.S. Internal Revenue Code. Although not a

“traditional” membership organization, courts have found GOF to possess “indicia of membership” under *Hunt v. Wash. State Apple Advert. Comm’n*, 432 U.S. 333 (1977), for purposes of representing its supporters’ interests in litigation. *See, e.g., Texas v. BATFE*, 737 F. Supp. 3d 426, 438 (N.D. Tex. 2024). GOF is financially supported by gun owners across the country, including residents of Virginia, and including by two of its board members residing in Virginia, all of whom receive updates about GOF’s activities and fund the organization’s activities so that it can, *inter alia*, file litigation such as this to preserve, protect, and defend their right to keep and bear arms. GOF’s supporters wish to import, sell, manufacture, purchase, acquire, transfer, and publicly carry “assault firearms” and “large capacity ammunition feeding devices,” free from criminal liability under the Challenged Statutes. Thus, Plaintiff Crump, and other GOF supporters like him, will be irreparably harmed by the Challenged Statutes’ blatantly unconstitutional infringement of their Article I, Section 13 rights. *See* Affidavit of Erich Pratt (Exhibit “D”).

51. Plaintiff Virginia Citizens Defense League (“VCDL”) is a non-stock corporation incorporated in 1998, and with its principal place of business in Newington, Virginia. VCDL is organized and operated as a nonprofit civil league and is exempt from federal income taxes under Section 501(c)(4) of the U.S. Internal Revenue Code. VCDL is a membership organization with tens of thousands of members and supporters across Virginia and throughout the nation, including within the jurisdiction of this Court. VCDL operates as a nonpartisan, grassroots organization dedicated to advancing the enumerated right to keep and bear arms as guaranteed by Article I, Section 13 of the Virginia Constitution and other rights.

52. VCDL’s individual members and supporters wish to import, sell, manufacture, purchase, acquire, transfer, and publicly carry “assault firearms” and “large capacity ammunition feeding devices,” free from criminal liability under the Challenged Statutes. Thus, Plaintiff

Crump, and other VCDL members and supporters like him, will be irreparably harmed by the Challenged Statutes' blatantly unconstitutional infringement of their Article I, Section 13 rights.

53. Finally, VCDL suffers direct, organizational harm under the Challenged Statutes. As an organization, VCDL has conducted and wishes to continue to conduct fundraising raffles of firearms, often including firearms now labeled "assault firearms," the proceeds of which fund the organization's activities. Likewise, at membership events and meetings, VCDL often conducts giveaways of magazines now classified as "large capacity ammunition feeding devices," drawing interest from prospective members. Similarly, VCDL conducts and hosts "range days" and training events where staff, members, supporters, and the public can view, experience, learn about, and use firearms and magazines prohibited by the Challenged Statutes. For each of these reasons, the Challenged Statutes harm VCDL directly, causing VCDL to suffer losses of membership revenue, along with the inability to conduct its activities and further its mission. *See* Affidavit of Philip Van Cleave (Exhibit "E").

54. Virginia Citizens Defense Foundation ("VCDF") is a Virginia non-stock corporation with its principal place of business in Newington, VA. VCDF was formed in 2024 and is organized and operated as a nonprofit legal defense and educational foundation that is exempt from federal income taxes under Section 501(c)(3) of the U.S. Internal Revenue Code. Although not a "traditional" membership organization, VCDF has "indicia of membership" under *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333 (1977), for purposes of representing its supporters' interests in litigation. VCDF is financially supported by gun owners across the country, including residents of Virginia, all of whom receive updates about VCDF's activities and fund the organization's activities so that it can, *inter alia*, file litigation such as this to preserve, protect, and defend their right to keep and bear arms. VCDF's supporters wish to import, sell, manufacture,

purchase, acquire, transfer, and publicly carry “assault firearms” and “large capacity ammunition feeding devices,” free from criminal liability under the Challenged Statutes. Thus, Plaintiff Crump, and other VCDF supporters like him, will be irreparably harmed by the Challenged Statutes’ blatantly unconstitutional infringement of their Article I, Section 13 rights. *See* Affidavit of Philip Van Cleave (Exhibit “E”).

55. Defendant Colonel Jeffrey S. Katz is the Superintendent of the Virginia Department of State Police. Defendant Katz is vested with authority to enforce the criminal laws of the Commonwealth of Virginia and to supervise the operations of the Virginia Department of State Police. *See, e.g.*, Va. Code §§ 52-1, 52-8, 52-9. As Superintendent, Defendant Katz is responsible for the creation, implementation, execution, and administration of the Department’s policies, practices, and enforcement activities, including those relating to firearms and magazines. Defendant Katz is sued in his official capacity.

JURISDICTION AND VENUE

56. This Court has jurisdiction to grant the relief sought pursuant to Va. Code §§ 8.01-184 and 8.01-620.

57. Venue is proper and preferred in this Court pursuant to Va. Code § 8.01-261(15)(c), permissible pursuant to Va. Code §§ 8.01-262(3) and (4), and is otherwise proper.

OPERATIVE FACTS

I. PLAINTIFFS HAVE STANDING.

58. Plaintiffs wish to import, sell, manufacture, purchase, acquire, transfer, and publicly carry “assault firearms” and “large capacity ammunition feeding devices,” free from criminal liability under the Challenged Statutes. To that end, Plaintiff Crump and the members and supporters of Plaintiffs GOA, GOF, VCDL, and VCDF all wish to acquire “assault firearms”

and/or “large capacity ammunition feeding devices” after July 1, 2026, at Chandler’s Firearms, a licensed dealer located within this Court’s jurisdiction, and at other licensed dealers and from others throughout the Commonwealth, but cannot due to the Challenged Statutes.

59. Chandler’s Firearms is a licensed firearm dealer, accessory store, and GOA Caliber Club member located within this jurisdiction in Kilmarnock, within Lancaster County, Virginia. Prior to the Challenged Statutes’ effective date, Chandler’s Firearms offered for sale now-prohibited “assault firearms” and “large capacity ammunition feeding devices” to the general public. Chandler’s Firearms also would receive firearms purchased by customers from online retailers located elsewhere in the country, which Chandler’s Firearms then would transfer to its customers. Chandler’s Firearms would continue to offer these firearms and magazines for sale and also facilitate transfers of these firearms from online retailers, but for Defendant’s enforcement of the Challenged Statutes’ criminal prohibitions. *See* Declaration of Eric J. Chandler (Exhibit “F”).

60. Plaintiff Crump is a law-abiding gun owner who regularly acquires firearms and magazines for self-defense, sport shooting, collecting, and to aid in “the proper, natural, and safe defense of a free state...” Va. Const. art. I, § 13. Many of Plaintiff Crump’s currently owned firearms and magazines fall under the definitions of “assault firearms” and “large capacity ammunition feeding devices” in the Challenged Statutes, which now limit his ability to publicly carry, transfer, gift, and dispose of these firearms and magazines. Likewise, the firearms and magazines Plaintiff Crump wishes to acquire in the immediate future, either to conduct reviews for news and social media as a journalist, or to personally own, qualify as “assault firearms” and “large capacity ammunition feeding devices” under the Challenged Statutes, meaning such acquisition is prohibited. Thus, Plaintiff Crump will be limited, and often times unable, to perform

these professional activities due to the Challenged Statutes, causing him professional and financial harm.

61. Plaintiff Crump wishes to acquire new “assault firearms” and “large capacity ammunition feeding devices,” and specifically wishes to acquire some of these firearms and magazines from Chandler’s Firearms in Kilmarnock, Virginia, within this jurisdiction. After July 1, 2026, and before the end of August 2026, Plaintiff Crump plans to travel down the Virginia coast during a vacation trip. Chandler’s Firearms will be on the way. Plaintiff Crump is familiar with Chandler’s Firearms, which he knows to offer for sale various specialty, collectible, and hard-to-find firearms, including difficult-to-find military surplus firearms. On his way during this trip, Plaintiff Crump plans to stop at Chandler’s Firearms, and plans to acquire at least one (but likely more) of the following firearms and magazines.

62. For instance, Plaintiff Crump wishes to acquire a new handgun within three months after July 1, 2026 to publicly carry for self-defense – specifically, a KelTec PR-5.7 pistol featuring a fixed, 20-round, top-loading internal magazine.⁸ However, because this entirely ordinary handgun is a “semi-automatic center-fire ... pistol with a fixed magazine capacity in excess of 15 rounds,” Va. Code § 18.2-308.2:2(F)(4)(1), which cannot be changed through the use of a different magazine, it is a prohibited “assault firearm” under the Challenged Statutes. Plaintiff Crump would acquire and at times publicly carry this pistol for self-defense within three months after July 1, 2026, but for his fear of criminal prosecution under the Challenged Statutes.

63. Plaintiff Crump also wishes to acquire a new AR-15-style rifle for home defense, training, and sport shooting. Plaintiff Crump has decided that a Daniel Defense DDM4 V7 rifle

⁸ See <https://www.keltecweapons.com/firearm/pistols/keltec-pr-5-7/>.

chambered in 5.56 NATO⁹ would offer the best combination of features and components for his budget, and he wishes to acquire one such rifle within three months after July 1, 2026. However, because this rifle is a “semi-automatic center-fire rifle that has the ability to accept a detachable magazine, not including an attached tubular device designed to accept and capable of operating only with .22 caliber rimfire ammunition,” and features (i) a “folding, telescoping, or collapsible stock,” (ii) a “pistol grip that protrudes conspicuously beneath the action of the rifle,” (iii) a “second handgrip or a protruding grip that can be held by the non-trigger hand,” and (iv) a “threaded barrel capable of accepting (a) a muzzle brake, (b) a muzzle compensator, (c) a sound suppressor, or (d) a flash suppressor,” Va. Code § 18.2-308.2:2(F)(4)(2), it is a prohibited “assault firearm” several times over under the Challenged Statutes. Plaintiff Crump would acquire this AR-15-style rifle, “the most popular rifle in the country” (*Smith & Wesson*, 605 U.S. at 297), within three months after July 1, 2026, but for his fear of criminal prosecution under the Challenged Statutes.

64. Likewise, Plaintiff Crump wishes to acquire standard-capacity magazines for his desired Daniel Defense DDM4 V7 rifle, such as Magpul PMAG 20 and PMAG 30 magazines (with 20- and 30-round capacities, respectively), and a Magpul PMAG D-60 drum magazine (with a 60-round capacity),¹⁰ also within three months after July 1, 2026. However, because each of these 5.56 NATO magazines “has a capacity of, or ... can be readily restored or converted to accept, more than 15 rounds of ammunition,” and they are not “tubular device[s] designed to accept and capable of operating only with .22 caliber rimfire ammunition,” Va. Code § 18.2-309.1(A), they are prohibited “large capacity ammunition feeding devices” under the Challenged Statutes.

⁹ See <https://danieldefense.com/ddm4-v7.html>.

¹⁰ See <https://magpul.com/pmag-20-ar-m4-gen-m3.html>; <https://magpul.com/pmag-30-ar-m4-gen-m3-window.html>; <https://magpul.com/pmag-d-60-ar-m4-gen-m3.html>.

Plaintiff Crump would acquire these magazines within three months after July 1, 2026, but for his fear of criminal prosecution under the Challenged Statutes.

65. The same is true for Plaintiff Crump’s desired acquisition of additional training magazines for his Glock 17 pistol. Within three months after July 1, 2026, Plaintiff Crump wishes to acquire several new Glock 17 magazines.¹¹ However, because these 9-millimeter magazines “ha[ve] a capacity of, or ... can be readily restored or converted to accept, more than 15 rounds of ammunition,” and they are not “tubular device[s] designed to accept and capable of operating only with .22 caliber rimfire ammunition,” Va. Code § 18.2-309.1(A), they are prohibited “large capacity ammunition feeding devices” under the Challenged Statutes. Plaintiff Crump would acquire these magazines within three months after July 1, 2026, but for his fear of criminal prosecution under the Challenged Statutes for acquiring magazines with capacities of just *two rounds* over the legal limit.

66. Next, Plaintiff Crump wishes to enhance his personal collection with the addition of an AR-15-style firearm shorter in length than his desired Daniel Defense DDM4 V7 rifle. Specifically, Plaintiff Crump wishes to acquire a Palmetto State Armory PA-15 pistol chambered in 5.56 NATO and equipped with a stabilizing brace in lieu of a shoulder stock.¹² However, because this pistol is a “semi-automatic center-fire pistol” that features (i) the “capacity to accept a magazine that attaches to the pistol outside of the pistol grip,” (ii) a “shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the pistol with the non-trigger hand without being burned,” (iii) a “threaded barrel capable of accepting (a) a

¹¹ See <https://gunmagwarehouse.com/glock-gen-5-glock-17-9mm-17-round-factory-magazine.html>.

¹² See <https://palmettostatearmory.com/psa-ar-15-10-5-carbine-5-56-1-7-nitride-classic-pistol-w-har-15-pistol-brace-fde.html>.

sound suppressor, (b) a flash suppressor, (c) a barrel extender, or (d) a forward handgrip,” and (iv) a “buffer tube, arm brace, or other part that protrudes horizontally behind the pistol grip and is designed or redesigned to allow or facilitate the firing of a firearm from the shoulder,” Va. Code § 18.2-308.2:2(F)(4)(3), it is a prohibited “assault firearm” under the Challenged Statutes. Plaintiff Crump would acquire this pistol within three months after July 1, 2026, but for his fear of criminal prosecution under the Challenged Statutes.

67. Plaintiff Crump also wishes to acquire new shotguns in the near future. Specifically, Plaintiff Crump wishes to acquire a collectible Benelli M4 Tactical 12-gauge shotgun featuring an ergonomic telescoping shoulder stock.¹³ However, because this shotgun is a “semi-automatic shotgun that expels single or multiple projectiles by action of an explosion of a combustible material” and features (i) a “folding, telescoping, or collapsible stock” and (ii) a “pistol grip that protrudes conspicuously beneath the action of the shotgun,” Va. Code § 18.2-308.2:2(F)(4)(4), it appears to be a prohibited “assault firearm” under the Challenged Statutes. Plaintiff Crump would acquire this shotgun within four months after July 1, 2026, but for his fear of criminal prosecution under the Challenged Statutes.

68. Likewise, Plaintiff Crump wishes to acquire a Derya DY12 magazine-fed 12-gauge shotgun¹⁴ within four months after July 1, 2026. However, because this shotgun is a “semi-automatic shotgun that expels single or multiple projectiles by action of an explosion of a combustible material” and features (i) a “folding, telescoping, or collapsible stock,” (ii) a “pistol grip that protrudes conspicuously beneath the action of the shotgun,” and (iii) the “ability to accept a detachable magazine,” Va. Code § 18.2-308.2:2(F)(4)(4), it appears to be a prohibited “assault

¹³ See <https://www.benellile.com/shotguns/m4-tactical-shotguns?eid=227>.

¹⁴ See <https://derya.us/dy12/>.

firearm” under the Challenged Statutes. Plaintiff Crump would acquire this shotgun within four months after July 1, 2026, but for his fear of criminal prosecution under the Challenged Statutes.

69. Alternatively, Plaintiff Crump does not know whether the Benelli M4 Tactical and Derya DY12 shotguns qualify as “assault firearms” under the Challenged Statutes, because they each have *more than* one regulated characteristic (not “*one* of the following characteristics”). Cf. Cal. Penal Code § 30515(a)(1) (emphasis added) (banning various firearms with “*any one* of the following” features).

70. Indeed, in contrast to the other provisions of SB749, which prohibit firearms with “one or more” or “two or more” features, Section 18.2-308.2:2(F)(4)(4) contains a variation in terms, suggesting a variation in meaning. See *Pulsifer v. United States*, 601 U.S. 124, 149 (2024) (“In a given statute, the same term usually has the same meaning and different terms usually have different meanings.”). Plaintiffs therefore seek a declaratory judgment finding that Va. Code § 18.2-308.2:2(F)(4)(4)’s restriction of shotguns with “one of the following characteristics” does not include shotguns with *more than one* such characteristic, irrespective of the Challenged Statutes’ unconstitutionality under Article I, Section 13.

71. Plaintiff Crump also faces uncertainty in his planned acquisition of a Taurus Judge Public Defender¹⁵ within four months after July 1, 2026. Although this firearm (and others like it) has the form factor of a revolver, it is capable of firing .410-bore shotshells. Because the Challenged Statutes do not define the term “shotgun,” Plaintiff Crump does not know whether this firearm would qualify as a prohibited “shotgun with a revolving cylinder” under Va. Code § 18.2-

¹⁵ See <https://www.taurususa.com/product/revolvers/taurus-judge/judge-public-defender-r-45-colt-410-ga-matte-black-oxide-2-in/>.

308.2:2(F)(4)(5), and so he will refrain from acquiring it for fear of criminal prosecution under the Challenged Statutes.

72. Indeed, Virginia law already criminalizes shotguns with revolving cylinders under Va. Code § 18.2-308.8. Presumably, the Delegates and Senators who voted to pass the Challenged Statutes already knew Section 18.2-308.8 was on the books, which would have obviated the need to make the same firearms *doubly illegal*. Thus, Plaintiff Crump is uncertain whether SB749 was intended to reach additional firearms, such as his desired .410-bore revolver.

73. Next, Plaintiff Crump has long desired to acquire a semi-automatic belt-fed firearm to enhance his personal collection. To that end, Lima Six, a manufacturer of belt-fed upper receivers for AR-15-style rifles,¹⁶ has offered to send Plaintiff Crump a belt-fed upper receiver for testing and review on AmmoLand. However, due to a lengthy backlog, this belt-fed upper receiver will not be ready for shipment to Plaintiff Crump until after the Challenged Statutes' July 1, 2026 effective date. And, in order to test and review this product, Plaintiff Crump will need to acquire an AR-15 stripped lower receiver and complete it into a fully functioning firearm with the Lima Six upper receiver. Yet under the Challenged Statutes, this will constitute manufacture of an "assault firearm," because such a rifle would be a "firearm that has the capacity to accept a belt ammunition feeding device," Va. Code § 18.2-308.2:2(F)(4)(6).

74. Finally, Plaintiff Crump currently owns at least one "stripped" AR-15-style lower receiver that does not contain any other parts.¹⁷ Thus, without any enumerated features, this lower receiver is not currently an "assault firearm" under the Challenged Statutes. Plaintiff Crump wishes to acquire parts over the coming months, and plans to assemble this lower receiver within

¹⁶ See <https://limasix.com/product/lima-six-belt-fed-upper-receiver/>.

¹⁷ See, e.g., <https://palmettostatearmory.com/psa-ar-15-m4-carbine-stripped-lower-receiver.html>.

four months after July 1, 2026 with a Magpul CTR shoulder stock,¹⁸ a Magpul MOE-K2+ pistol grip,¹⁹ a Magpul MVG second handgrip,²⁰ and a Palmetto State Armory 5.56 NATO upper receiver group featuring a threaded barrel and flash hider.²¹ However, because this desired configuration would feature (i) a “folding, telescoping, or collapsible stock,” (ii) a “pistol grip that protrudes conspicuously beneath the action of the rifle,” (iii) a “second handgrip or a protruding grip that can be held by the non-trigger hand,” and (iv) a “threaded barrel capable of accepting (a) a muzzle brake, (b) a muzzle compensator, (c) a sound suppressor, or (d) a flash suppressor,” Va. Code § 18.2-308.2:2(F)(4)(2), respectively, it would be a prohibited “assault firearm” under the Challenged Statutes. Plaintiff Crump would acquire parts and would assemble his lower receiver with these parts within four months after July 1, 2026, and therefore “manufacture” an “assault firearm,” but for his fear of criminal prosecution under the Challenged Statutes.

75. In addition to acquiring the above-described firearms and magazines, Plaintiff Crump also wishes to engage in various other innocuous and constitutionally protected conduct that the Challenged Statutes now prohibit.

76. For instance, within three months after July 1, 2026, Plaintiff Crump wishes to acquire new 10-round AR-15 magazines for use with one of his firearms chambered in .458 SOCOM. However, a 10-round .458 SOCOM AR-15 magazine *is the same magazine as a 30-round 5.56 NATO AR-15 magazine.*²² Thus, under the Challenged Statutes, the same magazine would be a Schrödinger’s “large capacity ammunition feeding device” – simultaneously prohibited

¹⁸ See <https://magpul.com/ctr-carbine-stock-mil-spec.html>.

¹⁹ See <https://magpul.com/moe-k2-plus-grip-ar15-m4.html>.

²⁰ See <https://magpul.com/m-lok-mvg-vertical-grip.html>.

²¹ See <https://palmettostatearmory.com/psa-16-mid-length-5-56-nato-1-7-nitride-moe-freedom-upper-with-bcg-ch.html>.

²² David M. Fortier, *.458 SOCOM – The Best Big-Bore AR-15 Cartridge?*, *Firearms News* (May 4, 2021), <https://tinyurl.com/4x2mvvrz>.

for sale as a 5.56 NATO magazine, while being perfectly legal for sale as a larger-caliber magazine. Given these magazines' potential sub-16-round capacities with larger-caliber ammunition, Plaintiffs seek a declaratory judgment finding that these sorts of multicaliber magazines still may be acquired and transferred under the Challenged Statutes after July 1, 2026, irrespective of the Challenged Statutes' unconstitutionality under Article I, Section 13.

77. Within three months after July 1, 2026, Plaintiff Crump also wishes to assemble a new 17-round magazine for his Glock 17 and a new 30-round magazine for his AR-15, each made from component parts Plaintiff Crump will acquire. Because Va. Code § 18.2-309.1(B) criminalizes only the import, sale, barter, transfer, and purchase of "large capacity ammunition feeding devices," but not their initial manufacture, Plaintiff Crump understands his contemplated *manufacture* of new magazines to fall outside the statute's reach. Plaintiffs seek a declaratory judgment finding that, irrespective of the statute's unconstitutionality, Va. Code § 18.2-309.1 allows individuals to manufacture and subsequently possess "large capacity ammunition feeding devices" from raw materials, kits, and component parts after July 1, 2026.

78. Next, Plaintiff Crump has a close friend and fellow GOA and VCDL member who has developed an interest in firearms and wishes to acquire firearms and magazines. For a total price of \$600, Plaintiff Crump has agreed to sell an AR-15-style rifle chambered in 5.56 NATO to his friend, along with five 30-round 5.56 NATO magazines, in a private sale to take place within three months after July 1, 2026, when his friend has the funds. However, because this AR-15-style rifle features a telescoping stock, pistol grip, and threaded barrel, it is a prohibited "assault firearm" under Va. Code § 18.2-308.2:2(F)(4)(2). Likewise, Plaintiff Crump's five 30-round 5.56 NATO magazines exceed the 15-round legal limit for magazines and therefore are prohibited "large capacity ammunition feeding devices" under Va. Code § 18.2-309.1(A). Thus, the Challenged

Statutes criminalize Plaintiff Crump’s planned sale. Plaintiff Crump would complete this sale but for his fear of criminal prosecution under the Challenged Statutes.

79. Plaintiff Crump also wishes to give a similar AR-15-style rifle chambered in 5.56 NATO, along with five 30-round 5.56 NATO magazines, as a gift to his nephew, who is over the age of 21 and eligible to purchase and possess firearms, and who lives in the same county as Plaintiff Crump, within three months after July 1, 2026. However, because this AR-15-style rifle features a telescoping stock, pistol grip, and threaded barrel, it is a prohibited “assault firearm” under Va. Code § 18.2-308.2:2(F)(4)(2). Likewise, Plaintiff Crump’s five 30-round 5.56 NATO magazines exceed the 15-round legal limit for magazines and therefore are prohibited “large capacity ammunition feeding devices” under Va. Code § 18.2-309.1(A). Although this planned gift of an “assault firearm” would be legal for an “immediate family member,” Plaintiff Crump’s nephew does not qualify under Va. Code § 18.2-287.4:1(C)(x). Moreover, Va. Code § 18.2-309.1(C) contains no family-transfer exception whatsoever. Thus, the Challenged Statutes criminalize Plaintiff Crump’s planned gift. Plaintiff Crump would give this rifle and these magazines to his nephew but for his fear of criminal prosecution under the Challenged Statutes.

80. Next, the Challenged Statutes do not provide Plaintiff Crump with sufficient clarity to know whether certain conduct and firearm features are proscribed. For instance, Va. Code §§ 18.2-308.2:2(F)(4)(2) and 18.2-308.2:2(F)(4)(4) each provide that a “thumbhole stock or pistol grip that protrudes conspicuously beneath the action” of a rifle or shotgun qualifies as an “assault firearm” feature. But “conspicuous[.]” is an inherently vague and subjective term, simply meaning “obvious to the eye or mind.”²³ What is “obvious” to Defendant’s State Police troopers, or other officers of the hundreds of agencies throughout the Commonwealth, may not be so “obvious” to

²³ *Conspicuous*, Merriam-Webster, <https://tinyurl.com/3dn349b9> (last visited Apr. 22, 2026).

Plaintiff Crump or to the similarly situated members and supporters of the Organizational Plaintiffs. Thus, Plaintiff Crump does not know whether certain pistol grips on otherwise-lawful firearms are “conspicuous” within the meaning of the Challenged Statutes, and Plaintiff Crump fears arbitrary and discriminatory criminal enforcement under the Challenged Statutes were he to take a prohibited action such as manufacturing a new firearm from component parts.

81. Similarly, Va. Code § 18.2-308.2:2(F)(4)(3) provides that a “shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the pistol with the non-trigger hand without being burned” qualifies as another “assault firearm” feature. Plaintiff Crump does not know whether the dust cover²⁴ on the frame of his Glock 17 would qualify as a “shroud.”²⁵ Indeed, the dust cover of a handgun frame – its forwardmost underside protrusion – “partially ... encircles[] the barrel” from below, and since Plaintiff Crump’s left thumb of his “non-trigger” hand often contacts and holds the handgun at that location, the dust cover would prevent his hand from “being burned.” *Id.* Thus, Plaintiff Crump does not know whether the Challenged Statutes criminalize a feature of nearly all modern handguns in existence, and Plaintiff Crump fears arbitrary and discriminatory criminal enforcement under the Challenged Statutes.

82. Relatedly, Plaintiff Crump wishes to install a threaded barrel on his Glock 17 and to publicly carry this handgun in that configuration. However, because Plaintiff Crump does not know whether his handgun frame’s dust cover qualifies as a “shroud,” he likewise does not know whether the addition of a threaded barrel will yield an “assault firearm” with “two or more”

²⁴ See *Dust Cover*, USCCA, <https://tinyurl.com/22j4v6zt> (last visited Apr. 22, 2026).

²⁵ Plaintiffs are not the only ones who have difficulty understanding what a “barrel shroud” is. For years, that term has confounded journalists and politicians alike. See *Tucker Carlson and the Famous ‘Barrel Shroud’ Clip [2007]*, YouTube (June 3, 2022), <https://youtu.be/oVIIcMaUPN0>. So too has the component of a firearm known as the “shoulder thing that goes up” – no doubt, a highly technical term of art used only by politicians. See *id.*

prohibited characteristics. *See* Va. Code § 18.2-308.2:2(F)(4)(3). Thus, Plaintiff Crump fears arbitrary and discriminatory criminal enforcement under the Challenged Statutes.

83. Of course, Plaintiffs need not actually violate the law in order to seek relief from the Challenged Statutes. Nor must Plaintiffs await an actual arrest or prosecution to challenge the Challenged Statutes. Indeed, a plaintiff can “bring a pre-enforcement suit when he ‘has alleged an intention to engage in a course of conduct arguably affected with a constitutional interest, but proscribed by a statute, and there exists a credible threat of prosecution thereunder.’” *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 160 (2014). Courts presume a credible threat of prosecution absent compelling evidence to the contrary. *See, e.g., Antonyuk v. James*, 120 F.4th 941, 1006 (2d Cir. 2024) (“[W]e ‘presume ... intent [to enforce the law] in the absence of a disavowal by the government or another reason to conclude that no such intent existed.’”); *Bryant v. Woodall*, 1 F.4th 280, 286 (4th Cir. 2021) (“[L]aws that are ‘recent and not moribund’ typically do present a credible threat.”); *Harrell v. Fla. Bar*, 608 F.3d 1241, 1257 (11th Cir. 2010) (“If a challenged law or rule was recently enacted, or if the enforcing authority is defending the challenged law or rule in court, an intent to enforce the rule may be inferred.”).

84. Thus, “[w]hen an individual is subject to such a threat, an actual arrest, prosecution, or other enforcement action is not a prerequisite to challenging the law.” *Susan B. Anthony List*, 573 U.S. at 158; *see also MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 128-29 (2007) (observing that, “where threatened action by government is concerned, we do not require a plaintiff to expose himself to liability before bringing suit to challenge the basis for the threat”); *Steffel v. Thompson*, 415 U.S. 452, 459 (1974) (same); *Black v. Commonwealth*, 262 Va. 764, 777-78 (2001) (“Threat of prosecution under a criminal statute ‘tends to chill the exercise of [constitutional]

rights.” (quoting *N.C. Right to Life, Inc. v. Bartlett*, 168 F.3d 705, 710 (4th Cir. 1999)), *aff’d in part, Virginia v. Black*, 538 U.S. 343 (2003).

85. Here, Defendant has not disavowed enforcement of the Challenged Statutes.

86. Plaintiff Crump is also a member of Plaintiffs GOA and VCDL and a supporter of Plaintiffs GOF and VCDF.

87. In addition to Plaintiff Crump, Plaintiffs GOA, GOF, VCDL, and VCDF (the “Organizational Plaintiffs”) together have tens of thousands of members and supporters across Virginia, many of whom also wish to import, sell, manufacture, purchase, acquire, transfer, and publicly carry prohibited “assault firearms” and “large capacity ammunition feeding devices” after July 1, 2026. The Organizational Plaintiffs assert the rights and interests of these members and supporters in a representational capacity.

88. The Organizational Plaintiffs’ members and supporters desire and overwhelmingly support GOA, GOF, VCDL, and VCDF’s involvement in litigation to protect their right to acquire and transfer prohibited “assault firearms” and “large capacity ammunition feeding devices” after July 1, 2026.

89. Protection of the rights and interests advanced in this litigation is germane to the Organizational Plaintiffs’ respective missions, which include the preservation and protection of the right to keep and bear arms under federal and state constitutions. The Organizational Plaintiffs routinely litigate cases throughout the country on behalf of their members and supporters. The Organizational Plaintiffs are capable of fully and faithfully representing the interests of their members and supporters without participation by each of the individuals.

90. The Organizational Plaintiffs further have direct, organizational standing, as they are headquartered in Virginia and seek to acquire firearms and magazines banned by the

Challenged Statutes for organizational purposes, including fundraising and education, and will be prohibited from doing so absent the relief sought by this case.

91. Finally, Plaintiffs have no adequate remedy at law to redress their injuries, and issuance of temporary and permanent injunctive relief is necessary to preserve the status quo and prevent imminent and irreparable constitutional harm.

92. Indeed, “it is generally understood that ‘the temporary violation of a constitutional right itself is enough to establish irreparable harm.’” *Stickley*, 110 Va. Cir. at 326 (collecting cases); *accord Young v. Northam*, 107 Va. Cir. 281, 288 (Culpeper Cnty. 2021) (“A ‘presumption of irreparable injury flows from a violation of constitutional rights.’”); *LaFave v. County of Fairfax*, 2023 Va. Cir. LEXIS 203, at *19 (Fairfax Cnty. June 23, 2023) (“Virginia courts have held that a temporary violation of a constitutional right is enough to establish irreparable harm.... Further, as the U.S. Supreme Court has recently noted in *Bruen*, the constitutional right to bear arms in public for self-defense is not a second-class right....”); *see also Elrod v. Burns*, 427 U.S. 347, 373 (1976) (“The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.”); *Bruen*, 597 U.S. at 70 (“The constitutional right to bear arms ... is not ‘a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees.’”).

93. Unless the Challenged Statutes are enjoined, Plaintiffs will be denied the right to import, sell, manufacture, purchase, barter, transfer, and publicly carry constitutionally protected firearms and magazines. But for the Challenged Statutes, Plaintiffs would engage in these activities.

94. The balance of equities also weighs in Plaintiffs’ favor. Plaintiffs’ state constitutional rights will be violated in real and concrete ways on the effective date of the

Challenged Statutes. In contrast, as law-abiding Virginians, Plaintiffs’ importation, sale, manufacture, purchase, barter, transfer, and public carry of “assault firearms” and “large capacity ammunition feeding devices” – conduct that has occurred lawfully for decades – will cause Defendant no harm whatsoever.

95. Finally, the public interest supports the granting of an injunction, because it is always in the public interest that the government be prevented from infringing enumerated constitutional rights. *See Stickley*, 110 Va. Cir. at 326 (citation omitted) (“[T]he public interest favors enjoining a constitutional violation, not allowing the unconstitutional application of a statute to perpetuate.’ Therefore, it is not adverse to the public interest to grant a preliminary injunction in order to preserve a constitutional right pending trial.”); *Legend Night Club v. Miller*, 637 F.3d 291, 302-03 (4th Cir. 2011) (“Maryland is in no way harmed by issuance of an injunction that prevents the state from enforcing unconstitutional restrictions. ... [U]pholding constitutional rights is in the public interest.”).

II. “ASSAULT FIREARMS” AND “LARGE CAPACITY AMMUNITION FEEDING DEVICES” ARE AMONG THE MOST POPULAR WEAPONS CHOSEN BY LAW-ABIDING AMERICANS FOR LAWFUL PURPOSES.

A. The Banned Weapons Are Overwhelmingly Popular.

96. The Challenged Statutes’ ban on pejoratively labeled “assault firearms” and “large capacity ammunition feeding devices” prohibits the acquisition of some of the most popular firearms and magazines in the country – perhaps most notably, the semi-automatic AR-15 rifle and its many variants, together with its magazines.

97. The concocted terms “assault firearm” and “assault weapon” are of recent vintage, and they postdate the introduction of the AR-15 by decades. The “assault” descriptor first entered

usage in the 1980s as a political term intended to sway public opinion against firearms with various modern features:

Josh Sugarmann, founder and executive director of the Violence Policy Center, laid out this strategy of misdirection and obfuscation in a 1988 report on “Assault Weapons and Accessories in America.” Sugarmann observed that “the weapons’ menacing looks, coupled with the public’s confusion over fully automatic machine guns versus semi-automatic assault weapons – anything that looks like a machine gun is assumed to be a machine gun – can only increase the chance of public support for restrictions on these weapons.”²⁶

98. Indeed, the first-ever ban on “assault weapons” came soon after in 1989, in the form of the Roberti-Roos Assault Weapons Control Act in California. *See* Cal. Penal Code § 30500 *et seq.*

99. In contrast, the AR-15 first entered the commercial market in 1964.²⁷

100. The AR-15’s ubiquity among law-abiding American citizens cannot be questioned. In *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280, 297 (2025), a unanimous U.S. Supreme Court explained that so-called “‘military style’ assault weapons, ... includ[ing] AR-15 rifles, AK-47 rifles, and .50 caliber sniper rifles,” are “both widely legal and bought by many ordinary consumers.”

101. The modern popularity of these firearms has analytical significance. In *Caetano v. Massachusetts*, 577 U.S. 411 (2016), a per curiam summary reversal, the Court explained that it is irrelevant to the constitutional inquiry whether a weapon was “‘not in common use at the time of

²⁶ Jacob Sullum, ‘Assault Weapons,’ *Explained, Reason* (June 2018), <https://tinyurl.com/yt5v7e93>; *see also* *Stenberg v. Carhart*, 530 U.S. 914, 1001 n.16 (2000) (Thomas, J., Rehnquist, C.J. & Scalia, J., dissenting) (“Prior to 1989, the term ‘assault weapon’ did not exist in the lexicon of firearms. It is a political term, developed by anti-gun publicists to expand the category of ‘assault rifles’ so as to allow an attack on as many additional firearms as possible on the basis of undefined ‘evil’ appearance.”).

²⁷ Glen Zediker, *The AR-15: A Brief History*, *Shooting Sports USA* (Oct. 16, 2019), <https://tinyurl.com/497cz88e>; *see also* Nicholas C, *POTD: Old Timey Colt AR-15 Sporter Ad*, *TFB* (June 21, 2016), <https://tinyurl.com/4shpt53w>.

the Second Amendment’s enactment,” or whether it is not “readily adaptable to use in the military.” *Id.* at 411, 412.

102. In fact, the Court stated that “[t]he AR-15 is the most popular rifle in the country.” *Smith & Wesson*, 605 U.S. at 297 (emphasis added).

103. This was not the first time various Justices acknowledged the AR-15’s overwhelming popularity. Indeed, there is broad consensus among so-called ‘conservative’ and ‘liberal’ Justices that AR-15s are in common use.

104. In *Snope v. Brown*, 145 S. Ct. 1534 (2025), Justice Kavanaugh observed that “Americans today possess an estimated 20 to 30 million AR-15s. And AR-15s are legal in 41 of the 50 States, meaning that the States such as Maryland that prohibit AR-15s are something of an outlier.” *Id.* at 1534 (Kavanaugh, J., respecting denial of certiorari).

105. And as Justice Thomas explained, the AR-15 is “the most popular civilian rifle in America.” *Snope*, 145 S. Ct. at 1535 (Thomas, J., dissenting from denial of certiorari). In fact, “[t]ens of millions of Americans own AR-15s, and the ‘overwhelming majority’ of them ‘do so for lawful purposes, including self-defense and target shooting.’” *Id.* at 1536; accord *Heller v. District of Columbia*, 670 F.3d 1244, 1269-70 (Kavanaugh, J., dissenting) (“Semi-automatic rifles, like semi-automatic handguns, have not traditionally been banned and are in common use by law-abiding citizens for self-defense in the home, hunting, and other lawful uses.”).

106. Likewise, Justices Sotomayor, Kagan, and Jackson acknowledged in *Garland v. Cargill*, 602 U.S. 406 (2024), that AR-15s are “commonly available, semiautomatic rifles.” *Id.* at 430 (Sotomayor, Kagan & Jackson, JJ., dissenting); see also James B. Jacobs, *Why Ban “Assault Weapons”?*, 37 *Cardozo L. Rev.* 681, 686 (2015) (“Practically all modern rifles, pistols, and shotguns are semiautomatics....”).

107. Placing these weapons’ popularity into perspective, one district judge observed that so-called “assault weapons” outnumber the ubiquitous Ford F-150 pickup truck several times over. Indeed, “[i]n 2018, 909,330 Ford F-150s were sold. Twice as many modern rifles were sold the same year.” *Miller v. Bonta*, 542 F. Supp. 3d 1009, 1022 (S.D. Cal. 2021); cf. *Caetano*, 577 U.S. at 420 (Alito & Thomas, JJ., concurring in the judgment) (noting only “‘approximately 200,000 civilians owned stun guns’” nationwide); *Bruen*, 597 U.S. at 28 (“the Second Amendment’s definition of ‘arms’ ... covers ... stun guns”).

108. Confirming these judicial findings, one 2019 study found that Americans owned almost 23 million “semiautomatic military rifle[s],” slightly more than the estimated 22 million “semiautomatic hunting rifle[s]” at the time.²⁸

109. Two years later, the “largest and most comprehensive survey of American gun owners ever conducted”²⁹ concluded that “30.2% of gun owners – about 24.6 million individuals – have owned an AR-15 or similarly styled rifle (up to 44 million such rifles in total).”³⁰

110. The same study also concluded that the magazines commonly used with these rifles are even *more* common than the rifles themselves. Indeed, at the time, “48.0% of gun owners – about 39 million individuals – have owned magazines that hold over 10 rounds (up to 542 million such magazines in total).”³¹

²⁸ John Berrigan et al., *The Number and Type of Firearms in the United States*, 704 *Annals of the Am. Acad. of Pol. & Soc. Sci.* 70, 70 (2023), <https://tinyurl.com/3mywvxwj>.

²⁹ Jacob Sullum, *The Largest-Ever Survey of American Gun Owners Finds that Defensive Use of Firearms Is Common, Reason* (Sept. 9, 2022), <https://tinyurl.com/36etkk7y>.

³⁰ William English, *2021 National Firearms Survey: Updated Analysis Including Types of Firearms Owned* (Georgetown McDonough School of Business Research Paper No. 4109494, 2022), <https://tinyurl.com/yc8pydmr>.

³¹ English, *supra*.

111. A 2022 study further confirmed the AR-15's popularity, observing that, in 2020 alone, "2,798,000 of these rifles were produced or imported."³² And in 2018, "[a]lmost one-half of all rifles (48%) produced in 2018 were modern rifles." *Miller*, 542 F. Supp. 3d at 1022.

112. The Challenged Statutes therefore ban the most ubiquitous "arms" in the country, and represent the First Amendment equivalent of banning the King James Bible.

B. The Banned Weapons Are Popular for Self-Defense and Other Lawful Purposes.

113. The Challenged Statutes' banned "assault firearms" and "large capacity ammunition feeding devices" are popular not only generally, but also specifically for the lawful purposes of self-defense and sport.

114. For instance, federal courts and several judges have found that "AR-15s are well-adapted for self-defense.... [T]he AR-15's design features – including the effectiveness of its cartridge for self-defense use and its better continuity of fire when used with available magazines – make the AR-15 a good choice for self-defense." *Ass'n of N.J. Rifle & Pistol Clubs, Inc. v. Platkin*, 742 F. Supp. 3d 421, 444 (D.N.J. 2024); *see also Heller*, 670 F.3d at 1269-70 (Kavanaugh, J., dissenting) ("Semi-automatic rifles ... are in common use by law-abiding citizens for self-defense in the home, hunting, and other lawful uses.").

115. Likewise, Justice Thomas has observed that the "overwhelming majority" of the "[t]ens of millions of Americans [who] own AR-15s ... 'do so for lawful purposes, including self-defense and target shooting.'" *Snope*, 145 S. Ct. at 1536 (Thomas, J., dissenting from denial of certiorari).

³² *Commonly Owned: NSSF Announces Over 24 Million MSRs in Circulation*, NSSF (July 20, 2022), <https://tinyurl.com/mvv4hx88>.

116. Thus, 61.9 percent of 2021 National Firearms Survey respondents reported that they possessed an AR-style firearm specifically for home defense.³³

117. The same is true for “large capacity ammunition feeding devices.” Recently, the D.C. Court of Appeals expressed “no doubt that law-abiding citizens do regularly fire more than 10 rounds for lawful purposes like target practice and marksmanship, and the Second Amendment’s protections extend to those activities as well.” *Benson v. United States*, 2026 D.C. App. LEXIS 80, at *35 (D.C. Mar. 5, 2026), *vacated, reh’g en banc granted* (D.C. Apr. 22, 2026).

118. Moreover, the D.C. Court of Appeals observed that magazines holding 11 or more rounds of ammunition “facilitate armed self-defense and law-abiding citizens possess hundreds of millions of them in this country.” *Benson*, 2026 D.C. App. LEXIS 80, at *25.

119. Defensive uses of higher-capacity magazines abound. For instance, during a 2019 home invasion, one Florida homeowner “fired approximately 25 rounds to defend his life and his property.”³⁴ Defending against a 2022 attempted robbery in public, one Pennsylvania man “fired approximately 18 rounds” in self-defense.³⁵ And in a 2022 home invasion during which the *perpetrator* used an “assault rifle,” a Kentucky homeowner needed enough firepower to “exchange[] gunfire” until the perpetrator “fled the property.”³⁶

C. The Banned Weapons Are Rarely Used in Crime.

120. Contrary to their pejorative labels under Virginia law, “assault firearms” like AR-15s are rarely used in crime. As then-Judge Kavanaugh explained, “semi-automatic *handguns* are

³³ English, *supra*, at 33.

³⁴ Nikki Goesser, *Ten Cases Over the Last Few Years Where People Have Had to Fire Ten or More Shots in Self Defense*, *Crime Prevention Rsch. Ctr.* (Oct. 22, 2020), <https://tinyurl.com/mtm8vz5j>.

³⁵ John Beauge, *Pa. Man Shoots Teen Multiple Times After Having Gun Drawn on Him: Police*, *PennLive* (Aug. 21, 2022), <https://tinyurl.com/4brmjtyh>.

³⁶ *Court Documents Reveal New Details in Richmond Homicide Case*, *FOX56* (Mar. 1, 2022), <https://tinyurl.com/mt4rk8ye>.

used in connection with violent crimes far more than semi-automatic *rifles* are.” *Heller*, 670 F.3d at 1269-70 (Kavanaugh, J., dissenting).

121. FBI crime data confirms this observation. From 2015 to 2019, handguns were used an order of magnitude more often in homicides than all rifles and shotguns combined.³⁷

D. “Assault Weapons” Bans Are Ineffective at Preventing Crime.

122. Scholarly research demonstrates that even possessory bans on semi-automatic weapons do little to prevent violent crime. Prior to the sunset of the 1994 federal “assault weapons” ban in 2004, a researcher with the University of Pennsylvania observed that the banned firearms “were used in only a small fraction of gun crimes prior to the ban: about 2% according to most studies....”³⁸

123. Moreover, despite having been in effect for nearly ten years at the time, the researcher noted that the federal “assault weapons” ban “ha[d] not yet reduced the use of LCMs [large-capacity magazines] in crime....”³⁹ Indeed, “the ban’s effects on gun violence [we]re likely to be small at best and perhaps too small for reliable measurement. [Assault weapons] were rarely used in gun crimes even before the ban.”⁴⁰

124. Likewise, following the Virginia Tech shooting in 2007, a review panel appointed by then-Governor Tim Kaine reported that:

The panel also considered whether the previous federal Assault Weapons Act of 1994 that banned 15-round magazines would have made a difference in the April 16 incidents. The law lapsed after 10 years, in October 2004, and had banned clips or magazines with over 10 rounds. The panel concluded that 10-round magazines

³⁷ See *2019 Crime in the United States: Expanded Homicide Data Table 8*, FBI (2019), <https://tinyurl.com/4psmrnvm>.

³⁸ Christopher S. Koper, *An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, at 2, *Univ. of Pa.* (June 2004), <https://tinyurl.com/mer4c32x>.

³⁹ *Id.*

⁴⁰ *Id.* at 3.

that were legal would have not made much difference in the incident. Even pistols with rapid loaders could have been about as deadly in this situation.⁴¹

125. SB749 will be similarly ineffective. The Challenged Statutes leave undisturbed the possession of existing firearms and magazines, while remaining silent on the manufacture of new magazines. Thus, millions of “assault firearms” and “large capacity ammunition feeding devices” will remain in circulation for years to come.

126. Moreover, while the federal “assault weapons” ban regulated arms from coast to coast, SB749 regulates only conduct occurring within the Commonwealth’s own borders, leaving quite literally hundreds of millions of firearms and magazines available to be unlawfully imported by criminals who will be entirely unaffected by a Class 1 misdemeanor when their intended use of such firearms is *felonious*. Thus, as is usually with anti-gun legislation, only the law-abiding will obey, and only the law-abiding will suffer.

E. “Assault Weapons” Bans Represent a Minority View Among the States, and the First Such Ban Dates Only to 1989.

127. Virginia’s “assault firearms” regime is also an outlier. In *Snope v. Brown*, 145 S. Ct. 1534 (2025), Justice Kavanaugh observed that “AR-15s are legal in 41 of the 50 States, meaning that the States ... that prohibit AR-15s are something of an outlier.” *Id.* at 1534 (Kavanaugh, J., respecting denial of certiorari).

128. Nor is the ban states’ minority view a longstanding one. The first “assault weapons” ban dates only to 1989. *See* Roberti-Roos Assault Weapons Control Act in California, Cal. Penal Code § 30500 *et seq.*

⁴¹ Virginia Tech Review Panel, Mass Shootings at Virginia Tech April 16, 2007: Report of the Review Panel 74 (Aug. 2007), <https://tinyurl.com/2p8xwj3r>.

F. In Contrast to Their Recent Introduction, “Assault Weapons” Bans Target Weapons and Technology that Have Been Commercially Available for Over a Century.

129. While bans on “assault firearms” and “large capacity ammunition feeding devices” are new, the underlying technologies are not.

130. In fact, “center-fire” weapons “have remained in common use since shortly after the Civil War.” *Drummond v. Robinson Township*, 9 F.4th 217, 227 (3d Cir. 2021).

131. Likewise, the first semi-automatic rifles were developed in approximately 1884.⁴² Thus, as one district court recently explained, “[s]emiautomatic rifles are not a ‘new’ invention – their current form is the result of the plodding pace of technological development.” *Barnett v. Raoul*, 756 F. Supp. 3d 564, 654 (S.D. Ill. 2024). And at the time of their invention, no jurisdiction sought to generally restrict the acquisition, ownership, or possession of semi-automatic rifles. Nor did Virginia – until just this year.

COUNT I
(Va. Const. art. I, § 13, Right to Keep and Bear Arms)

132. Paragraphs 1 through 131 are realleged in full and hereby incorporated by reference.

133. Article I, Section 13 of the Virginia Constitution provides “[t]hat a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defense of a free state, therefore, the right of the people to keep and bear arms shall not be infringed....”

134. This text incorporated the operative clause⁴³ of the federal Second Amendment, and was added to Article I, Section 13 in 1971. However, Virginians did not gain any new rights as a

⁴² Philip Schreier, *A Short History of the Semi-Automatic Firearm*, NRA (June 28, 2022), <https://tinyurl.com/ysn7y8pf>.

⁴³ “[T]he right of the people to keep and bear Arms, shall not be infringed.” U.S. Const. amend. II.

result of this effort to modernize the Virginia Constitution over 50 years ago, or even after its original enumeration in the 1776 Declaration of Rights.

135. Rather, protection of the natural, individual right to self-defense is not an act of legislative grace; the right exists with or without its documentary recognition and therefore *pre-exists* any constitution. *See, e.g., District of Columbia v. Heller*, 554 U.S. 570, 592 (2008) (noting that “it has always been widely understood that the Second Amendment, like the First and Fourth Amendments, codified a *pre-existing* right”); *see also United States v. Cruikshank*, 92 U.S. 542, 553 (1876) (“Neither is it in any manner dependent upon that instrument for its existence.”).

136. In other words, Article I, Section 13 is the Commonwealth’s recognition of a pre-existing right with which Virginians were endowed by their Creator, and it operates as a fixed limitation on the power of state or local government to enact legislation affecting firearms.

137. As the 1969 Virginia Commission on Constitutional Revision recognized:

most of the provisions of the Virginia Bill of Rights hav[ing] their parallel in the Federal Bill of Rights is ... no good reason not to look first to Virginia’s Constitution for the safeguards of the fundamental rights of Virginians. The Commission believes that the Virginia Bill of Rights should be a living and operating instrument of government and should, by stating the basic safeguards of the people’s liberties, minimize the occasion for Virginians to resort to the Federal Constitution and the federal courts. [*Report of the Commission on Constitutional Revision* at 86 (1969); *see also Richmond Newspapers, Inc. v. Commonwealth*, 222 Va. 574 (1981).]

138. Consequently, Article I, Section 13 provides an independent basis for the protection of individual rights without the need to resort to federal law. And although Article I, Section 13 may provide even stronger protection than the U.S. Constitution, it must, at a minimum, protect rights on a coextensive basis.

139. Indeed, based on the textual similarity between Article I, Section 13 and the Second Amendment’s operative clause, the 1971 General Assembly’s well-documented legislative intent

in amending Article I, Section 13, and the federal incorporation doctrine and Supremacy Clause, Article I, Section 13 “cannot provide fewer rights than the rights inherent under the Second Amendment.” *Stickley v. City of Winchester*, 110 Va. Cir. 300, 316, 317 (Winchester 2022); *see also DiGiacinto v. Rector & Visitors of George Mason Univ.*, 281 Va. 127, 134 (2011); *Elhert v. Settle*, 105 Va. Cir. 326, 330 (Lynchburg 2020) (“No party disputes that *Heller* and *McDonald* should provide the framework for analyzing the present case. Based on the quality of analysis in both cases and the absence of disagreement from the parties, the Court finds *Heller* and *McDonald* to be highly persuasive in evaluating Virginia’s constitutional right to keep and bear arms.”).

140. The 1969 floor debates from the House of Delegates and Senate make clear that the legislature “desired to align Article I, Section 13, with the Second Amendment.” *Stickley*, 110 Va. Cir. at 312. Several excerpts and exchanges from the floor debates evince this understanding:

Delegate Harrell: This merely puts into the Constitution of Virginia what is in the Constitution of the United States, to which, of course, we are all subject. Certainly our Constitution could not be in derogation of the federal Constitution....

...

Senator Bateman: Senator Barnes, it is the intent or purpose of this amendment to do anything other than what is done or protected by the safeguards of the second amendment to the Constitution of the United States?

Senator Barnes: No, Sir, the purpose is identical.

Senator Bateman: And the purpose only to guarantee that which is already guaranteed there?

Senator Barnes: That is right....

[*Id.* at 312-13.]

141. Article I, Section 13 is not the only Virginia constitutional provision that has been held coextensive with its federal counterpart. *See, e.g., Willis v. Mullett*, 263 Va. 653, 657 (2002) (due process under Article I, Section 11); *Elliott v. Commonwealth*, 267 Va. 464, 473-74 (2004) (free speech under Article I, Section 12).

142. Consistent with Virginia courts' analyses of other constitutional provisions, when a protection under the Virginia Declaration of Rights is coextensive with a federal constitutional right, Virginia courts often will apply the federal standard of review to the Virginia constitutional claim. *See Shivaee v. Commonwealth*, 270 Va. 112, 119 (2005) ("Because the due process protections afforded under the Constitution of Virginia are co-extensive with those of the federal constitution, the same analysis will apply to both."); *Vlaming v. W. Point Sch. Bd.*, 480 F. Supp. 3d 711, 721 (E.D. Va. 2020) (citation omitted) ("[C]ourts apply the same analysis to both federal and Virginia constitutional claims even though the claims 'arise under different sources of constitutional law.' Accordingly, courts may look to federal constitutional law when deciding Virginia constitutional claims.").

143. Consequently, although Plaintiffs do not bring and expressly disavow any claims under the Second Amendment or under any other provision of the U.S. Constitution or federal law, discussion of Second Amendment authorities is appropriate because "the Court cannot examine Article I, Section 13, of the Constitution of Virginia, and the constitutionality of [the Challenged Statutes] in a vacuum." *Stickley*, 110 Va. Cir. at 318; *see also Lynchburg Range & Training v. Northam*, 455 F. Supp. 3d 238, 248 (W.D. Va. 2020) (no removal jurisdiction for an Article I, Section 13 challenge).

144. Notably, another Virginia Circuit Court – the *Stickley* court – already has performed an extensive analysis of Article I, Section 13, its appropriate standard of review, and its application to a City of Winchester firearm ordinance passed pursuant to state law. *Stickley*, 110 Va. Cir. at 314; *see also Elhert*, 105 Va. Cir. at 329 (performing an extensive analysis and concluding "Article I, § 13 should be interpreted with a history-and-tradition framework").

145. In granting a preliminary injunction against portions of the Winchester ordinance, the *Stickley* court held that 1) Article I, Section 13 is at least coextensive⁴⁴ with the Second Amendment based on its text and history; 2) the Second Amendment’s textual and historical standard of review applies to Article I, Section 13 challenges; and 3) under that standard of review, a prohibition of firearms in public places like parks and public events is unconstitutional. *Stickley*, 110 Va. Cir. at 318, 320, 325.

146. The coextensive constitutional standard of review for Article I, Section 13 challenges is set forth in *District of Columbia v. Heller*, 554 U.S. 570 (2008), as reiterated and elaborated by *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022). *Stickley*, 110 Va. Cir. at 320; *see also Wilson v. Hanley*, 116 Va. Cir. 425, 431 (Lynchburg 2025) (“Under *Bruen*, any regulation affecting the right to bear arms must be rooted in the ‘historical tradition of firearm regulation’....”).

147. Beginning with *Heller*’s analysis, the Supreme Court has consistently and “expressly rejected the application of any judge-empowering interest-balancing inquiry that asks whether the statute burdens a protected interest in a way or to an extent that is out of proportion to the statute’s salutary effects upon other important governmental interests,” when it comes to the pre-existing right to keep and bear arms. *Bruen*, 597 U.S. at 22 (cleaned up); *see also McDonald v. City of Chicago*, 561 U.S. 742 (2010); *Caetano v. Massachusetts*, 577 U.S. 411 (2016) (per curiam).

⁴⁴ While Article I, Section 13 must be at least coextensive with the Second Amendment, it is unnecessary to decide whether Article I, Section 13 might be broader in this case, because the Challenged Statutes are unconstitutional under the Supreme Court’s explication of the Second Amendment’s minimum standard.

148. This categorical rejection of judicial interest balancing reflects the Framers’ understanding that the pre-existing right to keep and bear arms “‘is the very *product* of an interest balancing by the people’ and it ‘surely elevates above all other interests the right of law-abiding, responsible citizens to use arms’ for self-defense.” *Bruen*, 597 U.S. at 26. Indeed,

[t]he very enumeration of the right takes out of the hands of government – even the Third Branch of Government – the power to decide on a case-by-case basis whether the right is really worth insisting upon. A constitutional guarantee subject to future judges’ assessments of its usefulness is no constitutional guarantee at all. [*Heller*, 554 U.S. at 634.]

149. At bottom, *Bruen* “requires courts to assess whether modern firearms regulations are consistent with the ... text and historical understanding” of the enumerated right to keep and bear arms, rather than engage in any interest-balancing or policy-laden analyses. *Bruen*, 597 U.S. at 26.

150. Under this constitutional test, when the Constitution’s “plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation. Only then may a court conclude that the individual’s conduct falls outside the Second Amendment’s [and Article I, Section 13’s] ‘unqualified command.’” *Bruen*, 597 U.S. at 24.

151. In other words, if Plaintiffs’ “proposed course of conduct” falls within the obvious scope of Article I, Section 13’s text, such conduct is *presumed* protected and the Challenged Statutes are *presumed* unconstitutional unless Defendant carries his burden of “affirmatively” proving otherwise by showing a broad and enduring historical tradition of similar regulation. *Bruen*, 597 U.S. at 32, 19.

152. But Article I, Section 13’s absolutist language “keep and bear arms” contains no limitation on *what* arms one may acquire or transfer. Rather, it unequivocally declares that the right “shall not be infringed.”

153. Accordingly, the right presumptively belongs to all “the people,” presumptively protects “all instruments that constitute bearable arms,” and presumptively covers all “lawful purposes.” *Heller*, 554 U.S. at 581, 582, 624.

154. Only if Defendant can conclusively demonstrate via historical tradition that those who originally ratified Article I, Section 13 never considered certain persons, arms, or activities to be within its protections can this Court conclude that Plaintiffs’ “conduct falls outside [Article I, Section 13’s] ‘unqualified command.’” *Bruen*, 597 U.S. at 17.

155. Otherwise, that which Article I, Section 13 protects, it protects absolutely.

156. A number of courts already have analyzed the operative constitutional text such that Plaintiffs, along with their activities outlined above, clearly enjoy a presumption of constitutional protection. For example, there is no question that “ordinary, law-abiding, adult citizens [] are part of ‘the people’” under the plain text. *Bruen*, 597 U.S. at 31. Further, there is no question that Plaintiffs’ proposed course of conduct – importing, selling, manufacturing, purchasing, carrying in routine nonsensitive places held open to the public, and transferring firearms and magazines – falls squarely within the right to “keep and bear arms.” See *United States v. Rahimi*, 602 U.S. 680, 689 (2024) (emphases added) (“*when a firearm regulation is challenged ... the Government must show that the restriction ‘is consistent with the Nation’s historical tradition of firearm regulation’*”); *Luis v. United States*, 578 U.S. 5, 26 (2016) (Thomas, J., concurring in the judgment) (“Constitutional rights ... implicitly protect those closely related acts necessary to their exercise.”). And finally, Plaintiffs’ desired “arms” – various “assault firearms” and “large capacity ammunition

feeding devices” – undoubtedly qualify for presumptive protection, as Article I, Section 13 “extends, prima facie, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding.” *Heller*, 554 U.S. at 582; *see also Bruen*, 597 U.S. at 32 (“Nor does any party dispute that handguns are weapons ‘in common use’ today for self-defense.”); *Snope v. Brown*, 145 S. Ct. 1534, 1535 (2025) (Thomas, J., dissenting from denial of certiorari) (“AR-15s are clearly ‘Arms’ under the ... plain text.”); *Benson v. United States*, 2026 D.C. App. LEXIS 80, at *16 (Mar. 5, 2026) (“Magazines of all capacities are arms.”), *vacated, reh’g en banc granted* (D.C. Apr. 22, 2026).

157. Consequently, and to reiterate, Defendant bears the heavy burden of proving that the Challenged Statutes’ ban on the nation’s most ubiquitous firearms and magazines “is consistent with the ... historical tradition of firearm regulation.” *Bruen*, 597 U.S. at 24. He cannot meet that stringent test.

158. When conducting this Article I, Section 13 historical analysis, a number of methodological precepts bear emphasis. First, “when it comes to interpreting the Constitution, not all history is created equal.” *Bruen*, 597 U.S. at 34. “Constitutional rights are enshrined with the scope they were understood to have *when the people adopted them.*” *Id.* Accordingly, only historical evidence contemporaneous with the Founding era (*i.e.*, when Virginia first adopted its Declaration of Rights in 1776) is relevant in elucidating the scope of the right Article I, Section 13’s Framers protected. *See id.* at 35 (“[W]e must ... guard against giving postenactment history more weight than it can rightly bear.”); *id.* at 36 (“[T]o the extent later history contradicts what the text says, the text controls.”); *id.* (“[P]ostratification adoption or acceptance of laws that are *inconsistent* with the original meaning of the constitutional text obviously cannot overcome or alter that text.”); *id.* (“[B]ecause post-Civil War discussions of the right to keep and bear arms

‘took place 75 years after the ratification of the Second Amendment, they do not provide as much insight into its original meaning as earlier sources.’”); *id.* at 37 (treating 19th-century evidence “as mere confirmation of what the Court thought had already been established”); *id.* (“[W]e have generally assumed that the scope of the protection applicable to the Federal Government and States is pegged to the public understanding of the right when the Bill of Rights was adopted in 1791.”); *id.* at 66 n.28 (“We will not address any of the 20th-century historical evidence brought to bear... As with ... late-19th-century evidence, the 20th-century evidence ... does not provide insight into the meaning of the Second Amendment when it contradicts earlier evidence.”); *see also Espinoza v. Mont. Dep’t of Revenue*, 591 U.S. 464, 482 (2020) (rejecting examples of 19th century-era laws even from “more than 30 States” as failing to “establish an early American tradition”).

159. In other words, pre- and post-enactment historical evidence can only serve a confirmatory role and cannot establish a tradition that never otherwise existed *at ratification*.

160. Moreover, the fact that Article I, Section 13 was amended in 1971 to include the Second Amendment’s operative clause is inapposite and does not change the relevant time period for historical inquiry. *See Stickley*, 110 Va. Cir. at 322 (rejecting the argument that courts should “consider[] the historical tradition as it existed when the General Assembly amended Article I, Section 13”). As discussed *supra*, the General Assembly’s “purpose [was] only to guarantee that which [wa]s already guaranteed [in the Second Amendment],” *id.* at 313, and the Second Amendment guarantees a “pre-existing” right that is immune to post-enactment contradictions. *Heller*, 554 U.S. at 592; *Bruen*, 597 U.S. at 35.

161. Plaintiffs are aware of only one post-*Bruen* Article I, Section 13 decision that rejected Founding-era primacy in favor of the public understanding as of 1971. This outlier court, *LaFave v. County of Fairfax*, 2023 Va. Cir. LEXIS 203 (Fairfax Cnty. June 23, 2023), held that

“the operable period of history for purposes of the analysis that is required in this case should be 1971.” *Id.* at *14.

162. But while the *LaFave* court’s choice of temporal focal point made a difference in that case, this Court “need not address this issue” because “the public understanding of the right to keep and bear arms in both [1776] and [1971] was, for all relevant purposes, the same with respect to” bans on the firearms and magazines at issue here. *Bruen*, 597 U.S. at 38.

163. Indeed, the Challenged Statutes first went into effect in Virginia this year. Prior to that date, Virginians could (and did) import, sell, manufacture, purchase, transfer, and publicly carry the firearms and magazines that the Challenged Statutes now ban. This modern statutory scheme thus postdates 1971 *by decades*, and so it cannot inform the public understanding of the Article I, Section 13 right even then.

164. Moreover, looking outside Virginia, no “assault weapons” ban was in effect in 1971 – whether federally or in any state. Indeed, the first-ever ban on “assault weapons” came almost two decades later in 1989, in the form of the Roberti-Roos Assault Weapons Control Act in California. *See* Cal. Penal Code § 30500 *et seq.*

165. Accordingly, in 1971, Virginians and in fact *all Americans* were free to acquire, transfer, and carry the same sorts of firearms and magazines the Challenged Statutes now ban. These firearms and magazines are nothing new – they have been commonplace in this country for many decades, and the relevant technologies have been around for well over a century.

166. Second, it is Defendant’s burden – and his alone – to affirmatively prove that the Challenged Statutes comport with the original public understanding of the Article I, Section 13 right. *Bruen*, 597 U.S. at 60 (“Of course, we are not obliged to sift the historical materials for evidence to sustain [the] statute. That is respondents’ burden.”). If Defendant fails to prove a

broad and enduring historical tradition justifying the Challenged Statutes, Plaintiffs are entitled to the relief they seek. *See id.* at 24 (emphasis added) (announcing that “*only*” when the government carries its burden “may a court conclude that the individual’s conduct falls outside the Second Amendment’s ‘unqualified command’”).

167. Third, in proffering historical evidence, Defendant must establish a widespread Founding-era tradition. *Bruen*, 597 U.S. at 24 (emphasis added) (contemplating a “historical *tradition* of firearm regulation”); *id.* at 30 (requiring “well-established and representative” history); *id.* at 65 (rejecting historical evidence from a mere handful of states as “outliers”). While the *Bruen* Court did not articulate just how much historical evidence constitutes a “tradition,” this Court need not resolve that question because there is *no* relevant evidence – none – to support the Challenged Statutes.

168. Fourth, temporal relevance is not the only consideration. As the Supreme Court recently explained while applying *Bruen* in *United States v. Rahimi*, 602 U.S. 680, 692 (2024), a challenged regulation must be “consistent with the principles that underpin our regulatory tradition,” and “[a] court must ascertain whether the new law is ‘relevantly similar’ to laws that our tradition is understood to permit....” Accordingly, the “how and why” of purported historical analogues must align with the Challenged Statutes if they are to offer any support. *Bruen*, 597 U.S. at 29.⁴⁵ But even so, “when a challenged regulation addresses a general societal problem that

⁴⁵ For example, “a green truck and a green hat are relevantly similar if one’s metric is ‘things that are green.’ They are not relevantly similar if the applicable metric is ‘things you can wear.’” *Id.* (citation omitted). Accordingly, Defendant cannot cobble together a purported tradition of disparate laws that did *not* ban firearms and magazines based on their features and capacities. Thus, Founding-era prohibitions on firearm sales to noncitizen Indians, or regulations concerning the storage of volatile gunpowder – by way of example – have *nothing* to do with *what* firearms and magazines one may acquire, nor do they address the same purported societal problems (*i.e.*, different “how” and “why”) as the Challenged Statutes.

has persisted since the 18th century, the lack of a distinctly similar historical regulation addressing that problem is relevant evidence that the challenged regulation is inconsistent with the Second Amendment.” *Id.* at 26.

169. Because Defendant cannot possibly bear his historical burden, the Challenged Statute violates Article I, Section 13.

170. But this Court need not even proceed to historical analysis, as no historical tradition could ever justify the ban of firearms and magazines “in common use” today. Because the Challenged Statutes ban firearms and magazines that Virginians overwhelmingly choose for lawful purposes, the Challenged Statutes are simply “invalid.” *Heller*, 554 U.S. at 629.

171. The Challenged Statutes’ ban on public carry of these clearly protected firearms, as set forth in Section 18.2-287.4 as amended, is equally “invalid.” The plain language of this statute sweeps well beyond any narrow ban on possessing firearms in so-called “sensitive places.” *See, e.g., Bruen*, 597 U.S. at 30 (assuming that firearms were restricted in Founding-era “legislative assemblies, polling places, and courthouses”).

172. Rather, Section 18.2-287.4 categorically bans the carry of “assault firearms” on every road, sidewalk, park, and every place of any kind whatsoever that the public is allowed to enter – places where ordinary citizens, including Plaintiffs, are presumptively entitled to carry firearms in public for self-defense and other lawful purposes.

173. Indeed, “the Second Amendment guarantees an ‘individual right to possess and carry weapons in case of confrontation,’ and confrontation can surely take place outside the home.” *Bruen*, 597 U.S. at 33 (citation omitted).

174. So too does Article I, Section 13. As another Virginia court explained, “there is no historical basis to permit broad prohibitions on public carry.” *Stickley*, 110 Va. Cir. at 323. In fact,

“the relevant historical period both in Virginia and the United States demonstrates that citizens could carry in public if they were not doing so to cause terror – malice or bad intent.” *Id.* at 324.

175. Simply put, the General Assembly cannot declare every public place and road in the Commonwealth to be a gun-free zone for the most popular firearms Virginians own and carry, any more than New York can ban firearms from the entire island of Manhattan. Indeed, “there is no historical basis for New York to effectively declare the island of Manhattan a ‘sensitive place’....” *Bruen*, 597 U.S. at 31. If the purchase, transfer, manufacture, and transfer of firearms that the General Assembly has now banned is protected by Article I, Section 13, then it necessarily follows that Virginians have a right to bear those arms in public.

176. Plaintiffs accordingly request the following relief:

- a. a declaratory judgment pursuant to Va. Code § 8.01-184 finding that:
 - i. Va. Code § 18.2-308.2:2(F)(4)(1)-(7) (defining “assault firearms”);
 - ii. Va. Code § 18.2-287.4:1 (prohibiting the import, sale, manufacture, purchase, or transfer of so-called “assault firearms”);
 - iii. the associated penalties and derivative crimes contained in Va. Code §§ 18.2-308.09(1), 18.2-308.1:9, 18.2-308.2:1, 18.2-308.2:2(A), and 18.2-308.2:3;
 - iv. Va. Code § 18.2-308.2:5(E) (duplicatively prohibiting the willful and intentional purchase and sale of “assault firearms” in exchange for anything of value);
 - v. Va. Code § 18.2-287.4 (prohibiting the public carry of “assault firearms”);

- vi. Va. Code § 18.2-309.1 (defining, and prohibiting the import, sale, barter, transfer, or purchase of, “large capacity ammunition feeding devices”); and
- vii. Va. Code § 19.2-386.28 (providing for the forfeiture of prohibited “assault firearms” and “large capacity ammunition feeding devices”) (collectively, the “Challenged Statutes”);

are unconstitutional under Article I, Section 13 of the Virginia Constitution, insofar as they prohibit the importation, sale, manufacture, purchase, barter, transfer, and public carry of pejoratively named “assault firearms” and “large capacity ammunition feeding devices” after July 1, 2026; and

- b. a temporary and then permanent injunction pursuant to Va. Code § 8.01-620 *et seq.* enjoining the Superintendent of the Virginia State Police and his successors, officers, agents, servants, employees, all persons in active concert or participation with him who receive actual notice of the injunction(s), and all law enforcement divisions, agencies, and officers with notice of such injunction(s), from enforcing the Challenged Statutes.

COUNT II
(Va. Const. art. I, § 11, Right to Due Process of Law)

177. Paragraphs 1 through 131 are realleged in full and hereby incorporated by reference.

178. Article I, Section 11 of the Virginia provides “[t]hat no person shall be deprived of his life, liberty, or property without due process of law....”

179. A law violates due process protections as being unconstitutionally vague if it lacks sufficient definiteness such that ordinary people cannot understand what conduct is prohibited, or

it encourages arbitrary and discriminatory enforcement. This doctrine, as articulated by the Court of Appeals of Virginia, protects due process interests by requiring “‘that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly,’ and second, ‘preventing arbitrary and discriminatory enforcement by requiring that laws ... provide explicit standards to those who apply them.’” *Tjan v. Commonwealth*, 46 Va. App. 698, 707-08 (2005) (quoting *Parker v. Commonwealth*, 24 Va. App. 681, 687 (1997)).

180. In other words, when “the reach of the[] general descriptive terms” of a statute “depends in each case on the subjective tolerances, perceptions, and sensibilities” of law enforcement, the statute contains no “ascertainable standard[]” and therefore is unconstitutionally vague. *Tanner v. City of Virginia Beach*, 277 Va. 432, 440 (2009).

181. And when “a vague statute implicates citizens’ rights,” such “vague language in a statute or ordinance may cause citizens to avoid constitutionally permissible conduct based on a fear that they may be violating an unclear law. Thus, a vague statute may inhibit the exercise of constitutionally protected activities.” *Tanner*, 277 Va. at 439-40.

182. Contrary to these principles, the Challenged States leave Plaintiffs guessing as to what conduct and firearm features are proscribed.

183. First, Va. Code §§ 18.2-308.2:2(F)(4)(2) and 18.2-308.2:2(F)(4)(4) provide that a “thumbhole stock or pistol grip that protrudes conspicuously beneath the action” of a rifle or shotgun qualifies as an “assault firearm” feature. Given the subjective meaning of the term “conspicuously,” Plaintiffs fear arbitrary and discriminatory criminal enforcement under the challenged regime were they to take a prohibited action such as sale or transfer of a firearm.

184. Second, Va. Code § 18.2-308.2:2(F)(4)(3) provides that a “shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the pistol

with the non-trigger hand without being burned” qualifies as another “assault firearm” feature. Given the ambiguity in the statutory definition of “shroud,” Plaintiffs fear arbitrary and discriminatory criminal enforcement under the challenged regime as applied to his handguns.

185. Third, Va. Code § 18.2-308.2:2(F)(4)(5) prohibits shotguns “with a revolving cylinder,” but at no point does the statute define the term “shotgun.” Thus, Plaintiffs fear arbitrary and discriminatory criminal enforcement under the challenged regime were they to purchase a Taurus Judge Public Defender, a revolver capable of firing .410-bore shotshells, or similar firearms.

186. Plaintiffs accordingly request the following relief:

a. a declaratory judgment pursuant to Va. Code § 8.01-184 finding that:

- i. Va. Code §§ 18.2-308.2:2(F)(4)(2) and 18.2-308.2:2(F)(4)(4) (prohibiting certain firearm features that “protrude[] conspicuously”);
- ii. Va. Code § 18.2-308.2:2(F)(4)(3) (prohibiting barrel “shroud[s]” that fully or partial “encircle” a barrel); and
- iii. Va. Code § 18.2-308.2:2(F)(4)(5) (prohibiting shotguns “with a revolving cylinder”);

are unconstitutionally vague as applied to certain firearms, such as handguns generally, and handguns that can shoot shotgun ammunition, in violation of the right to due process under Article I, Section 11 of the Virginia Constitution; and

b. a temporary and then permanent injunction pursuant to Va. Code § 8.01-620 *et seq.* enjoining the Superintendent of the Virginia State Police and his successors, officers, agents, servants, employees, all persons in active concert or participation with him who receive actual notice of the injunction(s), and all

law enforcement divisions, agencies, and officers with notice of such injunction(s), from enforcing the Challenged Statutes.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Court:

1. Enter a declaratory judgment finding that Va. Code §§ 18.2-287.4:1, 18.2-308.09(1), 18.2-308.1:9, 18.2-308.2:1, 18.2-308.2:2(A), 18.2-308.2:3, 18.2-308.2:2(F)(4)(1)-(7), 18.2-308.2:5(E), 18.2-287.4, 18.2-309.1, and 19.2-386.28 are unconstitutional under Article I, Section 13 of the Virginia Constitution, insofar as they prohibit the importation, sale, manufacture, purchase, barter, transfer, and public carry of “assault firearms” and “large capacity ammunition feeding devices” after July 1, 2026;

2. Enter a declaratory judgment finding that Va. Code §§ 18.2-308.2:2(F)(4)(2), 18.2-308.2:2(F)(4)(4), 18.2-308.2:2(F)(4)(3), and 18.2-308.2:2(F)(4)(5) are unconstitutionally vague in violation of the right to due process under Article I, Section 11 of the Virginia Constitution;

3. Enter a declaratory judgment finding that, irrespective of the statutes’ unconstitutionality, (i) multicaliber magazines that may qualify as “large capacity ammunition feeding devices” for one caliber nevertheless may be imported, sold, bartered, transferred, or purchased under Va. Code § 18.2-309.1 if they are capable of holding a maximum of 15 or fewer rounds of a different caliber of ammunition; (ii) Va. Code § 18.2-309.1 allows individuals to manufacture and subsequently possess “large capacity ammunition feeding devices” from raw materials, kits, and component parts; and (iii) Va. Code § 18.2-308.2:2(F)(4)(4)’s restriction of shotguns with “one of the following characteristics” does not include shotguns with more than one such characteristic;

4. Issue temporary and then permanent injunctions enjoining the Superintendent of the Virginia State Police and his successors, officers, agents, servants, employees, all persons in active concert or participation with him who receive actual notice of the injunction(s), and all law enforcement divisions, agencies, and officers with notice of such injunction(s), from enforcing Va. Code §§ 18.2-287.4:1, 18.2-308.09(1), 18.2-308.1:9, 18.2-308.2:1, 18.2-308.2:2(A), 18.2-308.2:3, 18.2-308.2:2(F)(4)(1)-(7), 18.2-308.2:5(E), 18.2-287.4, 18.2-309.1, and 19.2-386.28; and

5. Grant such further relief as the Court may deem appropriate.

Respectfully submitted,

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