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11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 MARCO ANTONIO CARRALERO;  
14 GARRISON HAM; MICHAEL  
15 SCHWARTZ; ORANGE COUNTY  
16 GUN OWNERS PAC; SAN DIEGO  
17 COUNTY GUN OWNERS PAC;  
18 CALIFORNIA GUN RIGHTS  
19 FOUNDATION; and FIREARMS  
20 POLICY COALITION, INC.,

21 Plaintiffs,

22 v.

23 ROB BONTA, in his official capacity as  
24 Attorney General of California,

25 Defendant.

Case No.:

**COMPLAINT FOR  
DECLARATORY, INJUNCTIVE,  
OR OTHER RELIEF**

1 Marco Antonio Carralero; Plaintiffs Garrison Ham; Michael Schwartz; Orange  
2 County Gun Owners PAC; San Diego County Gun Owners PAC; California Gun  
3 Rights Foundation; and Firearms Policy Coalition, Inc. complain of Defendant Rob  
4 Bonta, in his official capacity as Attorney General of California, and allege:

5 **INTRODUCTION**

6 1. In *New York State Rifle & Pistol Association v. Bruen*, 142 S. Ct. 2111  
7 (2022), the Supreme Court held that the law-abiding citizens of this Nation have a  
8 general right to carry firearms for protection in public and therefore that states cannot  
9 limit eligibility for carry licenses to those with an atypical need for self-defense.

10 2. After *Bruen*, California’s previous may-issue licensing system was  
11 plainly unconstitutional. Undeterred, however, California now is attempting another  
12 strategy for infringing the Second Amendment rights of its citizens. Rather than  
13 strictly limiting *who* can obtain a carry license, California now strictly limits *where*  
14 even its citizens with licenses can carry firearms. This approach is no more  
15 constitutional than the State’s prior approach.

16 3. Plaintiffs accordingly sue to challenge the constitutionality of several  
17 “sensitive place” restrictions in Senate Bill 2 (“SB2”), which drastically limits where  
18 law-abiding citizens may carry handguns in public following *Bruen*.

19 4. The California Legislature enacted SB2 on September 12, 2023, and  
20 Governor Gavin Newsom signed SB2 into law on September 26, 2023. SB2 goes into  
21 effect on January 1, 2024.

22 5. SB2 restricts where persons with licenses to carry a concealed weapon  
23 may legally exercise their constitutional right to wear, carry, or transport firearms.  
24 And it does so in ways that are fundamentally inconsistent with the Second  
25 Amendment and the Supreme Court’s decision in *Bruen*.

26 6. The individual Plaintiffs are ordinary, law-abiding citizens. Each of the  
27 individual Plaintiffs has an active license to carry a concealed weapon (“CCW”)  
28

1 issued by their county sheriff. The organizational Plaintiffs each have members who  
2 likewise possess CCW licenses in counties throughout the State.

3 7. This lawsuit focuses on the provisions of SB2 that impose particularly  
4 egregious restrictions on the Second Amendment right to bear arms. Plaintiffs  
5 challenge SB2's restrictions on carrying at health care facilities, public transit and  
6 mass transit facilities, places where liquor is sold, public gatherings, public parks and  
7 athletic facilities, public property controlled by the State Department of Parks and  
8 Recreation or Department of Fish and Wildlife, gambling establishments, stadiums  
9 and arenas, public libraries, amusement parks, and zoos and museums. Cal. Penal  
10 Code § 26230, subs. (7), (8), (9), (10), (12), (13), (15), (16), (17), (19), (20). Plaintiffs  
11 also challenge SB2's no-carry default provision that generally prohibits carry on all  
12 private commercial property open to the public, absent express permission from the  
13 proprietor. *Id.*, subd. (26).

14 8. The Second Amendment does not tolerate these restrictions. This Court  
15 should enter judgment enjoining their enforcement and declaring them  
16 unconstitutional.

### 17 JURISDICTION AND VENUE

18 9. This Court has jurisdiction over this matter under 28 U.S.C. § 1331 and  
19 28 U.S.C. § 1343, because this Complaint seeks relief afforded by 42 U.S.C. § 1983,  
20 for past, continuing, and/or imminent violations of Plaintiffs' rights arising under the  
21 United States Constitution.

22 10. Venue is proper under 28 U.S.C. § 1391(b). Venue is also proper under  
23 28 U.S.C. § 1391 because California's venue rules permit this action to be filed in  
24 Orange County, where the Attorney General and California Department of Justice  
25 maintain an office. *See* Cal. Code Civ. Pro. § 401(1).

1 **THE PARTIES**

2 **Individual Plaintiffs**

3 9. Plaintiff Marco Antonio Carralero is a resident of Orange County,  
4 California. Carralero is a law-abiding, responsible gun owner who holds an active  
5 CCW license issued by the Orange County Sheriff’s Department. He is a member of  
6 Plaintiffs Orange County Gun Owners PAC (“OCGO”), California Gun Rights  
7 Foundation (“CGF”), and Firearms Policy Coalition, Inc. (“FPC”). Carralero carries,  
8 and intends to continue carrying, his personal firearm daily, during all his activities.  
9 He runs operations for a small family business and either already carries, or plans to  
10 carry in the coming weeks, his personal firearm for self-defense to the private  
11 businesses he frequents for work including hardware stores, Home Depot, Lowe’s,  
12 private carriers including UPS and FedEx, and retailers including Target, Walmart,  
13 Albertsons-Safeway, Gelson’s, CVS, and Ralph’s. If SB2’s no-carry default in private  
14 businesses were to go into effect, Carralero would restrict his carrying practices at  
15 private businesses for fear of arrest or prosecution.

16 10. Plaintiff Carralero also plans to carry his personal firearm for self-  
17 defense to a medical office or other place where medical services are currently  
18 provided in the coming weeks and months, both for his own routine medical care and  
19 to accompany members of his family.

20 11. Plaintiff Carralero would like to carry his personal firearm for self-  
21 defense to establishments licensed to serve alcohol for on-site consumption in the  
22 coming days, including Oak Ranch Grill, Morena’s Mexican Cuisine, and other local  
23 eateries he frequents. When Carralero received his CCW license, however, he was  
24 informed that even with a license, he could not carry in bars or any location whose  
25 primary purpose is to dispense alcoholic beverages for on-site consumption.

26 12. Plaintiff Carralero also plans to carry his personal firearm for self-  
27 defense to stadiums, including the parking lot of said stadiums, near where he lives in  
28 the next few months, such as Championship Soccer Stadium, in the Orange County

1 Great Park of Irvine. He also would regularly carry his personal firearm at museums,  
2 especially at Bowers Museum in Santa Ana, where he goes with his family; the  
3 Surfing Heritage and Culture Center; and the Dana Point Historical Society.

4 13. Plaintiff Carralero has every intention and desire to carry his personal  
5 firearm in and at all the locations identified above in the future but he will decline to  
6 do so because of the credible fear of arrest and prosecution after January 1, 2024,  
7 when SB2 takes effect.

8 14. Plaintiff Carralero also plans to carry his personal firearm for self-  
9 defense to parks near where he lives, at least some of which are controlled by the  
10 California Department of Parks and Recreation and Department of Fish and Wildlife.  
11 These parks include the Orange County Great Park of Irvine, Crystal Cove State Park,  
12 Aliso and Wood Canyons Wilderness Park, Salt Creek Beach Park, San Clemente  
13 State Beach, Las Ramblas Trailhead, Ronald W. Caspers Wilderness Park, and  
14 Thomas F. Riley Wilderness Park.

15 15. Plaintiff Garrison Ham is a resident of San Diego County, California. He  
16 is a law-abiding, responsible gun owner who holds an active CCW license issued by  
17 the San Diego County Sheriff's Department. He is a member of Plaintiffs San Diego  
18 County Gun Owners PAC ("SDCGO"), CGF, and FPC. With his CCW, Ham  
19 regularly carries his personal firearm when he enters stores and other privately owned  
20 commercial establishments that are open to the public, including grocery stores; gas  
21 stations and convenience stores; and retail establishments, including home  
22 improvement and gardening stores, shopping malls, clothing stores, and open-air  
23 markets. Ham also regularly attends public gatherings for which a permit is required  
24 while carrying his personal firearm, including the weekly Sunset Market in Oceanside,  
25 local farmer's markets, and political rallies and events. He has every intention and  
26 desire to continue to carry his personal firearm in and at all these locations in the future  
27  
28

1 but he will decline to do so because of the credible fear of arrest and prosecution after  
2 January 1, 2024, when SB2 takes effect.

3 16. Plaintiff Ham would also regularly carry his personal firearm at and in  
4 restaurants, bars, and other establishments that are licensed to sell liquor for on-site  
5 consumption, including restaurants, sports bars, and breweries. When Ham received  
6 his CCW license, however, he was informed that even with a license, he could not  
7 carry in bars or any location whose primary purpose is to dispense alcoholic beverages  
8 for on-site consumption.

9 17. Plaintiff Ham also regularly visits parks near where he lives, (including  
10 Guajome Park and Mission Trails), and he has visited parks under the control of the  
11 California Department of Parks and Recreation and Department of Fish and Wildlife  
12 (including Hollenbeck Nature Preserve). Ham plans to continue visiting these and  
13 other parks that are subject to SB2's carry ban, and he plans to carry his personal  
14 firearm for self-defense when visiting these parks.

15 18. Plaintiff Ham also frequently relies on public transportation when he  
16 routinely returns to visit family in the Bay Area and would carry his personal firearm  
17 for self-defense while doing so if permitted by California law. Ham has also visited  
18 amusement parks with family in the past 12 months, and intends to go again. Ham  
19 would carry his personal firearm for self-defense at the amusement park, particularly  
20 to protect his wife and members of his family who have small children.

21 19. Plaintiff Ham has every intention and desire to carry his personal firearm  
22 in and at all the locations identified above in the future but he will decline to do so  
23 because of the credible fear of arrest and prosecution after January 1, 2024, when SB2  
24 takes effect.

25 20. Plaintiff Michael Schwartz is a resident of San Diego County, California.  
26 Schwartz is a law-abiding, responsible gun owner who holds an active CCW license  
27 issued by the San Diego County Sheriff's Department. He is a member of Plaintiffs  
28

1 OCGO, SDCGO, CGF, and FPC. Schwartz carries, and intends to continue carrying,  
2 his personal firearm daily, during all his activities.

3 21. Plaintiff Schwartz regularly carries his personal firearm for self-defense  
4 to the restaurants he visits for work meetings multiple times each week, which include  
5 everything from taco shops and Carl's Jr. to Ruth's Chris Steak House. Schwartz  
6 would also like to carry in locations serving alcohol for on-site consumption, such as  
7 bars. When Schwartz received his CCW license, however, he was informed that even  
8 with a license, he could not carry in bars or any location whose primary purpose is to  
9 dispense alcoholic beverages for on-site consumption.

10 22. Plaintiff Schwartz carries his personal firearm for self-defense to the  
11 private businesses that he frequents for work and personal business, including grocery  
12 stores, coffee shops, local and national retail stores, office buildings, medical offices,  
13 hardware stores, convenience stores, and more. If SB2's provision about private  
14 businesses were to go into effect, he would restrict his carrying practices at private  
15 businesses for fear of arrest or prosecution.

16 23. Plaintiff Schwartz typically carries his personal firearm for self-defense  
17 to stadiums, such as Petco Park and Pechanga Arena. When traveling to stadiums or  
18 arenas, he takes public transportation and typically carries his personal firearm for  
19 self-defense while doing so. If required by the stadium, he secures his firearm in on-  
20 site lockers. But if SB2 goes into effect, Schwartz will not be allowed to bring his  
21 personal firearm on public transportation, or into the stadium/arena or its parking lot.

22 24. Plaintiff Schwartz also regularly carries his personal firearm at museums,  
23 especially those in Balboa Park (including the San Diego Air & Space Museum and  
24 Natural History Museum); as well as zoos, including the San Diego Zoo and San  
25 Diego Safari Park. He frequently carries his personal firearm for self-defense to parks,  
26 including La Mesa Park, Mast Park in Santee, Presidio Park, Robb Field, and Dog  
27 Beach, unless prohibited by county restrictions. And Schwartz carries for self-defense  
28 at public assemblies, including street fairs he attends for business, and at other social

1 assemblies like farmers markets and guacamole festivals. Schwartz also frequently  
2 carries his personal firearm for self-defense at public libraries, which he uses as  
3 workspaces when traveling for work.

4 25. Plaintiff Schwartz frequently carries his personal firearm for self-defense  
5 at gambling establishments, including Viejas Casino and Resort, Sycuan Casino,  
6 Rincon Casino, and the Lucky Lady Card Room. If required by these locations,  
7 Schwartz secures his firearm in on-site lockers. But if SB2 goes into effect, he could  
8 not even bring his personal firearm into certain of these gambling establishments or  
9 their parking lots.

10 26. Plaintiff Schwartz has every intention and desire to carry his personal  
11 firearm in and at all the locations identified above in the future but he will decline to  
12 do so because of the credible fear of arrest and prosecution after January 1, 2024,  
13 when SB2 takes effect.

14 **Organizational Plaintiffs<sup>1</sup>**

15 27. Plaintiff Orange County Gun Owners PAC is a political organization  
16 based in Orange County, whose purpose is to protect and advance the Second  
17 Amendment rights of residents of Orange County, through their efforts to support and  
18 elect local and state representatives who support the Second Amendment right to keep  
19 and bear arms, education, and advocacy on Second Amendment issues. OCGO's  
20 membership and donors consist of Second Amendment supporters, people who own  
21 guns for self-defense and sport, firearms dealers, shooting ranges, and elected officials  
22 who want to restore and protect the right to keep and bear arms in California. Plaintiffs  
23 Carralero and Schwartz are members of OCGO.

24 28. OCGO has one or more members who live in California and who travel  
25 throughout California in the ordinary course of their lives, and who also possess a

26 \_\_\_\_\_  
27 <sup>1</sup> This complaint refers to Plaintiffs Firearms Policy Coalition, Inc., Orange  
28 County Gun Owners PAC, San Diego County Gun Owners PAC, and California Gun  
Rights Foundation, who bring this action on behalf of their members who have an  
active CCW, as "Organizational Plaintiffs."



1 CCW issued by the appropriate licensing authorities. OCGO has at least one member  
2 who has a CCW license and regularly carries firearms in and at each of the locations  
3 challenged in this Complaint. These members of OCGO with CCW licenses intend to  
4 continue to possess and carry firearms at such locations, but reasonably fear  
5 prosecution if they do so after January 1, 2024. OCGO brings this action on behalf of  
6 its members who have an active CCW, which includes each of the individual  
7 plaintiffs.

8 29. Plaintiff San Diego County Gun Owners PAC is a political organization  
9 based in San Diego County, whose purpose is to protect and advance the Second  
10 Amendment rights of residents of San Diego County, through their efforts to support  
11 and elect local and state representatives who support the Second Amendment right to  
12 keep and bear arms, education, and advocacy on Second Amendment issues.  
13 SDCGO's membership and donors consist of Second Amendment supporters, people  
14 who own guns for self-defense and sport, firearms dealers, shooting ranges, and  
15 elected officials who want to restore and protect the right to keep and bear arms in  
16 California.

17 30. SDCGO has one or more members who live in California and who travel  
18 throughout California in the ordinary course of their lives, and who also possess a  
19 CCW issued by the appropriate licensing authorities. SDCGO has at least one member  
20 who has a CCW license and regularly carries firearms in and at each of the locations  
21 challenged in this Complaint. These members of SDCGO with CCW licenses intend  
22 to continue to possess and carry firearms at such locations, but reasonably fear  
23 prosecution if they do so after January 1, 2024. SDCGO brings this action on behalf  
24 of its members who have an active CCW, which includes Plaintiffs Ham and  
25 Schwartz.

26 31. Plaintiff California Gun Rights Foundation ("CGF") is a nonprofit  
27 foundation incorporated under the laws of California with a place of business in  
28 Sacramento, California. CGF serves its members, supporters, and the public through

1 educational, cultural, and judicial efforts to defend and advance Second Amendment  
2 and related rights. CGF has thousands of members throughout California. CGF brings  
3 this action on behalf of those members with an active CCW issued by California  
4 licensing authorities, including the named plaintiffs herein. CGF's members will be  
5 adversely and directly harmed by Defendants' enforcement of the laws, regulations,  
6 policies, practices, and customs challenged herein once SB2 takes effect on January  
7 1, 2024. CGF has at least one member who has a CCW license and who carries  
8 firearms in and at each of the locations challenged in this Complaint, at which  
9 locations CCW licensees will be prohibited from carrying their arms by SB2 as of  
10 January 1, 2024. These CGF members would fully intend to continue to carry at the  
11 locations challenged in this Complaint after January 1, 2024, but for their reasonable  
12 fear prosecution if they do so after January 1, 2024.

13 32. Plaintiff Firearms Policy Coalition, Inc. ("FPC") is a nonprofit  
14 membership organization incorporated in Delaware with a primary place of business  
15 in Clark County, Nevada. FPC works to create a world of maximal human liberty and  
16 freedom and to promote and protect individual liberty, private property, and economic  
17 freedoms. It seeks to protect, defend, and advance the People's rights, especially but  
18 not limited to the inalienable, fundamental, and individual right to keep and bear arms  
19 and protect the means by which individuals may exercise the right to carry and use  
20 firearms. FPC serves its members and the public through legislative advocacy,  
21 grassroots advocacy, litigation and legal efforts, research, education, outreach, and  
22 other programs. FPC's members reside both within and outside the State of California.

23 33. FPC brings this action on behalf of those members with an active CCW  
24 issued by California licensing authorities, including the named plaintiffs herein. FPC's  
25 members will be adversely and directly harmed by Defendants' enforcement of the  
26 laws, regulations, policies, practices, and customs challenged herein once SB2 takes  
27 effect on January 1, 2024. FPC has at least one member who has a CCW license and  
28 who carries firearms in and at each of the locations challenged in this Complaint, at

1 which locations CCW licensees will be prohibited from carrying their arms by SB2 as  
2 of January 1, 2024. These FPC members would fully intend to continue to carry at the  
3 locations challenged in this Complaint after January 1, 2024, but for their reasonable  
4 fear prosecution if they do so after January 1, 2024. Each of the individual Plaintiffs  
5 is a member of FPC.

6 34. Defendant Rob Bonta is the Attorney General of the State of California.  
7 The Attorney General is the chief law enforcement officer of the state, and it is his  
8 duty to ensure that California's laws are uniformly and adequately enforced. The  
9 Attorney General is the head of the Department of Justice, which, among other things,  
10 regulates and enforces state law related to the issuance of licenses to carry firearms in  
11 public and restrictions on the carry of firearms, including any laws and regulations  
12 impacted by this case. The Attorney General maintains an office in this District.

### 13 GENERAL ALLEGATIONS

#### 14 **A. California Adopts Sweeping “Sensitive Place” Restrictions That Broadly** 15 **Prohibit the General Right to Public Carry Arms for Self Defense.**

16 35. California has prohibited individuals from carrying concealed handguns  
17 in public for years. *See* Cal. Penal Code § 25400. State law likewise broadly prohibits  
18 the open carry of firearms. *See id.* § 25850 (prohibiting the open carry of a loaded  
19 firearm); § 26350 (prohibiting the open carry of an unloaded handgun in public). As  
20 a result, to carry a handgun in public in any manner, Californians must secure a CCW  
21 license to carry a concealed weapon from their county sheriff. *See id.* § 26150.

22 36. Until recently, California law restricted the public carry of handguns  
23 subject to a “may issue” licensing regime. The state prohibited open carry entirely and  
24 allowed concealed carry only when approved by a local licensing official: Californians  
25 who wished carry a firearm in public needed to establish “good cause” to the  
26 satisfaction of their county sheriff, who established rules for what constituted “good  
27 cause” in their jurisdiction. Cal. Penal Code §§ 25850, 26350, 26150, 26155, 26160;  
28 *see generally Peruta v. Cnty. Of San Diego*, 742 F.3d 1144, 1147–48, 1168–69 (9th

1 Cir. 2014) (reviewing California’s legislative scheme governing the public carry of  
2 firearms), *vacated* 781 F.3d 1106 (9th Cir. 2015); on reh’g en banc, 824 F.3d 919,  
3 925–27 (9th Cir. 2016) (same); *see also Peruta v. California*, 137 S. Ct. 1995, 1996–  
4 97 (2017) (Thomas, J., joined by Gorsuch, J., dissenting from the denial of certiorari).  
5 In *Peruta*, the en banc Ninth Circuit upheld two counties’ “good cause” policies that  
6 required applicants to show a particularized need to carry a firearm for self-defense—  
7 and in doing so, held that “the Second Amendment does not preserve or protect a right  
8 of a member of the general public to carry concealed firearms in public.” 824 F.3d at  
9 924.<sup>2</sup>

10 37. The Supreme Court’s decision in *New York State Rifle & Pistol Ass’n v.*  
11 *Bruen*, 142 S. Ct. 2111 (2022), held the opposite. In *Bruen*, the Supreme Court struck  
12 down New York’s “good cause” licensing requirement as unconstitutional under the  
13 Second Amendment because a State may not condition the right to publicly carry  
14 handguns on a citizen’s “special need for self-defense.” *Id.* at 2135 n.8. Contrary to  
15 the presumption against carrying in a may-issue regime like California’s before *Bruen*,  
16 “the Second Amendment guarantees a general right to public carry,” meaning that  
17 ordinary, law-abiding citizens may “‘bear’ arms in public for self-defense.” *Bruen*,  
18 142 S. Ct. at 2135; *id.* at 2156 (“We know of no other constitutional right that an  
19 individual may exercise only after demonstrating to government officers some special  
20 need.”).

21 38. The California Legislature passed SB2 in September 2023 in direct  
22 response to *Bruen*. S. Bill No. 2 (2023–2024 Reg. Sess.). The bill takes effect on  
23 January 1, 2024. Governor Newsom has not hidden his disdain for the Supreme

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24 <sup>2</sup> Five years after *Peruta*, the en banc Ninth Circuit upheld Hawaii’s may-issue  
25 permitting scheme and held that the state’s restrictions on open carry were “not within  
26 the scope of the right protected by Second Amendment.” *Young v. Hawaii*, 992 F.3d  
27 765, 826 (9th Cir. 2021), petition for writ of certiorari granted; *vacated and remanded*  
28 in light of *Bruen*, 142 S. Ct. 2895 (2022). In doing so, the Ninth Circuit became “the  
first and only court of appeals to hold that public carry falls *entirely* outside the scope  
of the Amendment’s protections.” *Young*, 992 F.3d at 829 (O’Scannlain, J.,  
dissenting).

1 Court's ruling in *Bruen*. At a press conference announcing the bill, Governor Newsom  
 2 called *Bruen* a "bad ruling," an "absurdity," and mocked the right to carry firearms  
 3 outside the home. See <https://twitter.com/i/broadcasts/1vAxRAXgXRVJl>, last  
 4 accessed Sept. 18, 2023 (timestamps: 41:08 (called *Bruen* an "absurdity"); 41:20 (used  
 5 air quotes while discussing "right" to carry a firearm outside home); 1:01:44 (called  
 6 *Bruen* a "bad ruling").

7 39. SB2 decrees 29 categories off limits for licensed carry. See Cal. Penal  
 8 Code § 26230.<sup>3</sup> The ostensible authority for these bans is that they are "sensitive  
 9 places" entitled to different treatment under the Supreme Court's Second Amendment  
 10 cases. See SB2, § 1(b).

11 40. Without conceding that all of SB2's prohibitions are lawful, Plaintiffs  
 12 seek an injunction against those restrictions most likely to impact their daily lives.

13 These are prohibitions on carry in:

14 (7) A building, real property, and parking area under the control of a  
 15 public or private hospital or hospital affiliate, mental health facility,  
 16 nursing home, medical office, urgent care facility, or other place at which  
 17 medical services are customarily provided.

18 (8) A bus, train, or other form of transportation paid for in whole or in  
 19 part with public funds, and a building, real property, or parking area  
 20 under the control of a transportation authority supported in whole or in  
 21 part with public funds.

22 (9) A building, real property, and parking area under the control of a  
 23 vendor or an establishment where intoxicating liquor is sold for  
 24 consumption on the premises.

25 (10) A public gathering or special event conducted on property open to  
 26 the public that requires the issuance of a permit from a federal, state, or  
 27 local government and sidewalk or street immediately adjacent to the  
 28 public gathering or special event but is not more than 1,000 feet from the  
 event or gathering, provided this prohibition shall not apply to a licensee  
 who must walk through a public gathering in order to access their  
 residence, place of business, or vehicle.

(12) A park, athletic area, or athletic facility that is open to the public and  
 a street or sidewalk immediately adjacent to those areas, provided this  
 prohibition shall not apply to a licensee who must walk through such a  
 place in order to access their residence, place of business, or vehicle.

(13) Real property under the control of the Department of Parks and  
 Recreation or Department of Fish and Wildlife, except those areas

<sup>3</sup> Exhibit 1 to the Complaint sets out Section 26230 in full.

1 designated for hunting pursuant to Section 5003.1 of the Public  
2 Resources Code, Section 4501 of Title 14 of the California Code of  
3 Regulations, or any other designated public hunting area, public shooting  
4 ground, or building where firearm possession is permitted by applicable  
5 law.

6 (15) A building, real property, or parking area that is or would be used  
7 for gambling or gaming of any kind whatsoever, including, but not  
8 limited to, casinos, gambling establishments, gaming clubs, bingo  
9 operations, facilities licensed by the California Horse Racing Board, or a  
10 facility wherein banked or percentage games, any form of gambling  
11 device, or lotteries, other than the California State Lottery, are or will be  
12 played.

13 (16) A stadium, arena, or the real property or parking area under the  
14 control of a stadium, arena, or a collegiate or professional sporting or  
15 eSporting event.

16 (17) A building, real property, or parking area under the control of a  
17 public library.

18 (19) A building, real property, or parking area under the control of an  
19 amusement park.

20 (20) A building, real property, or parking area under the control of a zoo  
21 or museum.

22 (26) Any other privately owned commercial establishment that is open to  
23 the public, unless the operator of the establishment clearly and  
24 conspicuously posts a sign at the entrance of the building or on the  
25 premises indicating that licenseholders are permitted to carry firearms on  
26 the property. Signs shall be of a uniform design as prescribed by the  
27 Department of Justice and shall be at least four inches by six inches in  
28 size.

41. These “sensitive place” designations are plainly unconstitutional under  
*Bruen*.

**B. California’s Broad “Sensitive Place” Restrictions Violate The Second  
Amendment.**

42. The Second Amendment is applicable to the States as incorporated via  
the Fourteenth Amendment. *McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010).  
“[T]he 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.”  
*District of Columbia v. Heller*, 554 U.S. 570, 582 (2008).

43. To determine whether a state’s firearm restriction is constitutional, the  
Court in *Bruen* explained that “the standard for applying the Second Amendment is  
as follows: When the Second Amendment’s plain text covers an individual’s conduct,

1 the Constitution presumptively protects that conduct. The government must then  
2 justify its regulation by demonstrating that it is consistent with the Nation’s historical  
3 tradition of firearm regulation.” 142 S. Ct. at 2129.

4 44. *Bruen* has already established that the Second Amendment covers  
5 plaintiffs’ proposed conduct here—carrying arms publicly for self-defense and other  
6 lawful purposes. *Id.* at 2134–35. As such, the Second Amendment “presumptively  
7 protects” Plaintiffs’ right to carry firearms in public in California. *Id.* at 2129.

8 45. It is thus the State’s burden to “affirmatively prove that its firearms  
9 regulation is part of the historical tradition that delimits the outer bounds of the right  
10 to keep and bear arms.” *Id.* at 2127; *see also id.* at 2150 (“[W]e are not obliged to sift  
11 the historical materials for evidence to sustain New York’s statute. That is  
12 respondents’ burden.”).

13 46. The *Bruen* Court struck down New York’s “proper cause” requirement  
14 for issuing a permit to carry a handgun in public. In doing so, it expressly rejected  
15 New York’s attempt to justify its restriction as analogous to a historical “sensitive  
16 place” regulation. *Id.* at 2133–34. The Court explained that a state may not simply ban  
17 guns wherever people may “congregate” or assemble: A rule that “expand[ed] the  
18 category of ‘sensitive places’ simply to all places of public congregation that are not  
19 isolated from law enforcement defines the category of ‘sensitive places’ far too  
20 broadly.” *Id.* at 2134. “Put simply, there is no historical basis for New York to  
21 effectively declare the island of Manhattan a ‘sensitive place’ simply because it is  
22 crowded and protected generally by the New York City Police Department.” *Id.*

23 47. So if a state seeks to restrict firearms in a particular location as a  
24 “sensitive place,” it must prove that its current restriction is sufficiently analogous to  
25 a “well-established and representative historical analogue.” *Id.* at 2133. The Court has  
26 identified only three such locations: founding-era “legislative assemblies, polling  
27 places, and courthouses.” *Id.* at 2133 (citing *Heller*, 554 U.S. at 626). The unifying  
28 principle allowing arms to be restricted in these locations at the Founding was

1 comprehensive government-provided security. *See* Amicus Br. of The Center for  
 2 Human Liberty 8–17, *Antonyuk v. Nigrelli*, 2d Cir. No 22-2908, ECF No. 313 (Feb.  
 3 9, 2023); Amici Br. of Citizens Comm. For the Right to Keep and Bear Arms, et al.  
 4 8–17, *Koons v. Platkin*, 3rd Cir. No. 23-1900, ECF No. 91 (Aug. 16, 2023).

5 48. *Bruen* leaves no doubt that the plain text of the Second Amendment  
 6 covers Plaintiffs’ proposed course of conduct. Accordingly, Plaintiffs’ conduct is  
 7 “presumptively protect[ed]” by the Constitution, *id.* at 2126, and the State bears the  
 8 burden of “justify[ing]” SB2’s sensitive place restrictions “by demonstrating that  
 9 [they are] consistent with the Nation’s historical tradition of firearm regulation,” *id.*  
 10 at 2130. It cannot do so.

### 11 CLAIM FOR RELIEF

#### 12 VIOLATION OF 42 U.S.C. § 1983 (SECOND AMENDMENT)

13 49. Plaintiffs incorporate here by reference paragraphs 1 through 48, *supra*,  
 14 as if fully set forth herein.

15 50. The Second Amendment to the United States Constitution provides: “A  
 16 well regulated Militia, being necessary to the security of a free State, the right of the  
 17 people to keep and bear Arms, shall not be infringed.” U.S. CONST. amend II. The  
 18 Supreme Court has squarely held that the Second Amendment protects an individual  
 19 right to keep and bear arms, and that all responsible, law-abiding Americans may  
 20 exercise that right. *See Heller*, 554 U.S. 570. In *Bruen*, the Supreme Court held that  
 21 the Second Amendment right to keep and bear arms fully extends to general carry of  
 22 arms in public. *See Bruen*, 142 S. Ct. at 2134.

23 51. The *Bruen* framework begins with the plain text. If the plaintiffs’  
 24 proposed course of conduct falls within the Second Amendment’s plain text, then “the  
 25 Constitution presumptively protects that conduct.” *Id.* at 2126. Importantly,  
 26 “[n]othing in the Second Amendment’s text draws a home/public distinction,” *Bruen*,  
 27 142 S. Ct. at 2134—or for that matter, any distinction between locations at all. That  
 28 makes the Second Amendment unlike other Amendments. *See* U.S. Const. amend. III



1 (“No Soldier shall, in time of peace be quartered in any house, without the consent of  
2 the Owner, nor in time of war, but in a manner to be prescribed by law.”); U.S. Const.  
3 amend. IV (“The right of the people to be secure in their persons, houses, papers, and  
4 effects, against unreasonable searches and seizures, shall not be violated.”). And it  
5 means that any locational restrictions on Second Amendment rights must come from  
6 history, not from the plain text.

7 52. There is no “well-established, representative historical analogue” for  
8 SB2’s bans on firearms in and at health care facilities, public transit and mass transit  
9 facilities, places where liquor is sold, public gatherings, public parks and athletic  
10 facilities, public property controlled by the State Department of Parks and Recreation  
11 or Department of Fish and Wildlife, gambling establishments, stadiums and arenas,  
12 public libraries, amusement parks, zoos and museums, and private commercial  
13 property open to the public. Section 26230, subds. (7), (8), (9), (10), (12), (13), (15),  
14 (16), (17), (19), (20), (26). The bans imposed by Section 26230, as enacted by SB2,  
15 are facially unconstitutional under the Second Amendment because they ban the carry  
16 of firearms by CCW holders at these locations.

17 53. Consider the broad reach of these bans. Prohibiting firearms at all health  
18 care facilities extends across the board to visitors, employees, contractors, and health  
19 care professionals.

20 54. The transit ban attaches to every “form of transportation” and all property  
21 of a transportation authority “paid for in whole or in part with public funds.” This ban  
22 applies not only to the commuter passing through a bustling train station or riding on  
23 a rush-hour metro, but also the service worker waiting to take the last bus home.

24 55. Locations “where intoxicating liquor is sold for consumption on the  
25 premises” includes most restaurants, all wineries and breweries, many private clubs,  
26 and locations operated by private associations in California. There are tens of  
27 thousands of such locations in California and the bans at these places adversely affect  
28 virtually every CCW holder who eats at restaurants or at private clubs. Under SB2,

1 CCW holders may not carry in such places, even if they do not consume a drop of  
2 alcohol or even if they enter such places merely to retrieve a carry-out order. These  
3 bans at such locations would also encompass events for which temporary, one-time  
4 licenses are granted, including at fundraising events and events conducted outside.

5 56. There is no “well-established, representative historical analogue”  
6 prohibiting carry at public gatherings, gambling and gaming establishments, stadiums  
7 and arenas, public libraries, amusement parks, zoos, and museums. There is no state-  
8 provided security at these locations of public congregation. Such locations can be  
9 targets for mass violence and there is an ever-present risk of acute confrontation in  
10 these settings.

11 57. Likewise, there is no “well-established, representative historical  
12 analogue” prohibiting carry at public parks and athletic facilities, public property  
13 controlled by the State Department of Parks and Recreation or Department of Fish and  
14 Wildlife. These restrictions cover instances of public congregation (for sporting and  
15 recreational events, social gatherings, and the like), which carry the risks discussed  
16 above. But there is also the particular risk of confrontation when these locations are  
17 sparsely populated: People running in parks at odd hours of the day or hiking in remote  
18 areas of state parks, where the need for self-defense against a person (or wild animal)  
19 can arise without warning.

20 58. Finally, there is there is no “well-established, representative historical  
21 analogue” for the no-carry default provision that bans carry at every “privately owned  
22 commercial establishment that is open to the public” unless the owner “clearly and  
23 conspicuously posts a sign at the entrance of the building or on the premises indicating  
24 that license holders are permitted to carry firearms on the property.” This restriction  
25 effectively nullifies the “general right” to carry in public as it precludes a CCW holder  
26 from carrying into private property that is otherwise open to the public, including  
27 stores, shops, hotels, motels, restaurants, retail establishments, theatres, malls, and  
28 other places of public accommodation throughout the State of California.



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