

No. 19-2250

**In the United States Court of Appeals
For The Fourth Circuit**

TANNER HIRSCHFELD; NATALIA MARSHALL,

Plaintiffs/Appellants,

– v. –

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES;
THOMAS E. BRANDON, in his official capacity as the Deputy and Acting
Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives;
JEFFERSON B. SESSIONS III, in his official capacity as Attorney General of the
United States,

Defendants/Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

**BRIEF OF AMICUS CURIAE EVERYTOWN FOR GUN SAFETY
SUPPORT FUND IN SUPPORT OF APPELLEES AND AFFIRMANCE**

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February 19, 2020

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

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No. 19-2250Caption: Hirschfeld v. Bureau of Alcohol, Tobacco, Firearms, and Explosives

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Everytown for Gun Safety Support Fund

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3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? YES NO
If yes, identify entity and nature of interest:
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If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? YES NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? YES NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ Darren A. LaVerne

Date: February 19, 2020

Counsel for: Everytown for Gun Safety Support Fu

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	ii
INTRODUCTION AND STATEMENT OF INTEREST.....	1
ARGUMENT	3
I. COURTS CONSIDERING SECOND AMENDMENT CHALLENGES TO FEDERAL LAWS HAVE LOOKED TO STATE FIREARMS LAWS FOR GUIDANCE	3
II. THE LAWS OF NUMEROUS STATES REGULATING THE PURCHASE, POSSESSION AND CARRYING OF FIREARMS BY THOSE UNDER TWENTY-ONE SUPPORT THE FEDERAL MINIMUM- AGE RESTRICTION AT ISSUE HERE	7
A. Laws Setting Twenty-One as the Minimum Age to Purchase Firearms.....	7
B. Laws Prohibiting Firearm Possession by Those Under the Age of Twenty-One.....	9
C. Laws Setting Twenty-One as the Minimum Age to Carry Firearms.....	10
CONCLUSION.....	12

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Ass’n of N.J. Rifle & Pistol Clubs, Inc. v. Att’y Gen. N.J.</i> , 910 F.3d 106 (3d Cir. 2018)	2
<i>Colo. Outfitters Ass’n v. Hickenlooper</i> , Nos. 14-1290, 14-1292 (10th Cir.)	2
<i>Heller v. District of Columbia</i> , 670 F.3d 1244 (D.C. Cir. 2011).....	4, 5
<i>Hirschfeld v. Bureau of Alcohol, Tobacco, Firearms and Explosives</i> , No. 3:18-CV-00103 (W.D. Va., Apr. 17, 2019).....	8
<i>Kolbe v. Hogan</i> , No. 14-1945 (4th Cir.) (en banc)	2
<i>Malpasso v. Pallozzi</i> , No. 18-2377 (4th Cir.)	2
<i>Nat’l Rifle Ass’n of Am., Inc. v. Bureau of Alcohol, Tobacco, Firearms, & Explosives</i> , 700 F.3d 185 (5th Cir. 2012)	6
<i>Nat’l Rifle Ass’n of Am., Inc. v. Swearingen</i> , No. 4:18-cv-137-MW-CAS (N.D. Fla.).....	2
<i>Obergefell v. Hodges</i> , 135 S. Ct. 2584 (2015).....	3
<i>Payton v. New York</i> , 445 U.S. 573 (1980).....	4
<i>Powell v. Tompkins</i> , 926 F. Supp. 2d 367 (D. Mass. 2013), <i>aff’d</i> , 783 F.3d 332 (1st Cir. 2015)	6
<i>Rehaif v. United States</i> , 139 S. Ct. 2191 (2019).....	2

Rhode v. Becerra,
 No. 3:18-cv-00802-BEN-JLB (S.D. Cal.)2

Ring v. Arizona,
 536 U.S. 584 (2002).....3

Rupp v. Becerra,
 401 F. Supp. 3d 978 (C.D. Cal. 2019), *appeal docketed*, No. 19-
 56004 (9th Cir. Aug. 28, 2019).....2

United States v. Yancey,
 621 F.3d 681 (7th Cir. 2010) (per curiam)5

Washington v. Glucksberg,
 521 U.S. 702 (1997).....4

Wilson v. Lynch,
 835 F.3d 1083 (9th Cir. 2016)5

Statutes & Rules

11 R.I. Gen. Laws § 11-47-11.....10, 11

11 R.I. Gen. Laws § 11-47-18.....10, 11

18 Pa. Cons. Stat. § 6109.....10, 11

18 U.S.C. § 922.....3, 6

27 C.F.R. § 478.96(b)3

27 C.F.R. § 478.99(b)(1).....3

27 C.F.R. § 478.124(a).....3

430 Ill. Comp. Stat. 65/2(a)(1).....8

430 Ill. Comp. Stat. 65/3.....8

430 Ill. Comp. Stat. 65/4(a)(2).....8, 9

430 Ill. Comp. Stat. 65/8(a)9

730 Ill. Comp. Stat. 66/25.....10

720 Ill. Comp. Stat. 5/24-3.1(a)(1)9

Alaska Stat. § 11.61.220(a)(6)10

Alaska Stat. § 18.65.70510

Ariz. Rev. Stat. § 13-3102(A)(2)10

Ariz. Rev. Stat. § 13-3112(E)10

Ark. Code § 5-73-30910

Cal. Penal Code § 27510(a)8

Colo. Rev. Stat. § 18-12-203(1)(b)10

Conn. Gen. Stat. § 29-28.....10

Conn. Gen. Stat. § 29-35.....10

Conn. Gen. Stat. § 29-36f10

D.C. Code § 7-2502.03(a).....9

D.C. Code § 7-2507.06(a).....9

D.C. Code § 7-2509.02(a)(1)10, 11

Fla. Stat. § 790.0610

Fla. Stat. § 790.0658, 9

Ga. Code § 16-11-129(b)(2)(A).....10

Haw. Rev. Stat. § 134-2(d)9

Haw. Rev. Stat. § 134-9(a).....10

Iowa Code § 724.8(1).....10

Kan. Stat. § 21-6302(a)(4)10

Kan. Stat. § 75-7c04(a)(3)10

Ky. Rev. Stat. § 237.110.....10

La. Rev. Stat. § 40:1379.3(C)(4).....	10
Mass. Gen. Laws ch. 140, § 131	9, 10
Md. Code Public Safety § 5-133.....	9
Mich. Comp. Laws § 28.422.....	8
Mich. Comp. Laws § 28.425b(7)(a)	10
Minn. Stat. § 624.713.....	10
Minn. Stat. § 624.714.....	10
Miss. Code § 45-9-101(2)(b)(i).....	10
N.C. Gen. Stat. § 14-415.12(a)(2).....	10, 11
N.J. Stat. § 2C:58-3.....	10, 11
N.J. Stat. § 2C:58-4.....	10, 11
N.J. Stat. § 2C:58-6.1	9
N.M. Stat. § 29-19-4(A)(3)	10, 11
N.Y. Penal Law § 400.00.....	8, 9, 10, 11
Neb. Rev. Stat. § 69-2433	10
Nev. Rev. Stat. § 202.3657	10
Ohio Rev. Code § 2923.21(A)(2)	8
Ohio Rev. Code § 2923.125(D)(1)(b).....	10, 11
Ohio Rev. Code § 2923.211(B)	8
Okla. Stat. tit. 21 § 1272(A).....	11
Okla. Stat. tit. 21 § 1290.9(3).....	10
Or. Rev. Stat. § 166.291	10, 11
S.C. Code § 23-31-215(A).....	10, 11

Tex. Gov. Code § 411.172(a)(2).....10, 11

Va. Code § 18.2-308.0210, 11

Vt. Stat. tit. 13, § 40209

Wash. Rev. Code § 9.41.040.....9

Wash. Rev. Code § 9.41.070.....10, 11

Wash. Rev. Code § 9.41.080.....9

Wash. Rev. Code § 9.41.240(1).....9

Wis. Stat. § 175.60(3)(a).....10, 11

Wyo. Stat. § 6-8-10410, 11

Wyo. Stat. § 6-8-104(a)(iv), (b)(ii)11

Other Authorities

Second Amendment*passim*

Fourth Amendment4

S.B. 150, 2019 Reg. Sess. (Ky. 2019), § 110

Sixth Amendment3

U.S. Census Bureau, *2019 National & State Population Estimates, Table 1, Annual Estimates of Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2010 to July 1, 2019* (Dec. 30, 2019), <https://bit.ly/2wjQ8uJ>8

INTRODUCTION AND STATEMENT OF INTEREST¹

Amicus curiae Everytown for Gun Safety Support Fund (“Everytown”) is the education, research, and litigation arm of Everytown for Gun Safety, the nation’s largest gun violence prevention organization, with nearly six million supporters across all fifty states. Everytown for Gun Safety was founded in 2014 as the combined effort of Mayors Against Illegal Guns, a national, bipartisan coalition of mayors combating illegal guns and gun trafficking, and Moms Demand Action for Gun Sense in America, an organization formed after the murder of twenty children and six adults at an elementary school in Newtown, Connecticut by a twenty-year-old using a firearm. The mayors of thirty-eight cities and towns located in the Fourth Circuit are members of Mayors Against Illegal Guns. Everytown also includes a large network of gun-violence survivors who are empowered to share their stories and advocate for responsible gun laws.

Everytown’s mission includes defending common-sense gun safety laws by filing amicus briefs that provide historical context and doctrinal analysis that might otherwise be overlooked. Everytown has filed such briefs in numerous Second

¹ All parties consent to the filing of this brief, and no counsel for any party authored it, in whole or in part. Apart from amicus curiae Everytown for Gun Safety Support Fund, no person contributed money intended to fund the brief’s preparation or submission.

Amendment cases—including in cases, like this one, involving challenges to restrictions on the purchase and sale of firearms, *see, e.g., Colo. Outfitters Ass’n v. Hickenlooper*, Nos. 14-1290, 14-1292 (10th Cir.); *Nat’l Rifle Ass’n of Am., Inc. v. Swearingen*, No. 4:18-cv-137-MW-CAS (N.D. Fla.); *Rhode v. Becerra*, No. 3:18-cv-00802-BEN-JLB (S.D. Cal.), and in cases in the Fourth Circuit, *see Malpasso v. Pallozzi*, No. 18-2377 (4th Cir.); *Kolbe v. Hogan*, No. 14-1945 (4th Cir.) (en banc). Several courts have also cited and expressly relied on Everytown’s amicus briefs in deciding Second Amendment and other gun cases. *See Ass’n of N.J. Rifle & Pistol Clubs, Inc. v. Att’y Gen. N.J.*, 910 F.3d 106, 112 n.8 (3d Cir. 2018); *Rupp v. Becerra*, 401 F. Supp. 3d 978, 991-92 & n.11 (C.D. Cal. 2019), *appeal docketed*, No. 19-56004 (9th Cir. Aug. 28, 2019); *see also Rehaif v. United States*, 139 S. Ct. 2191, 2210-11 nn.4 & 7 (2019) (Alito, J., dissenting).

Everytown seeks to assist this Court by providing information on state firearms laws that underscore the history and ongoing prevalence of restrictions on the purchase of handguns by 18-to-20-year-olds. These laws, representing the reasoned judgment of numerous state legislatures, support the constitutionality of the challenged federal statute and implementing regulations and bolster Defendants-Appellees’ position that the lower court decision should be affirmed.

ARGUMENT

The challenged statute and implementing regulations require a person to be twenty-one years old to buy a handgun, or ammunition for a handgun, from a federally licensed firearms dealer (“FFL”). *See* 18 U.S.C. § 922(b)(1), (c)(1); 27 C.F.R. §§ 478.99(b)(1), 478.124(a), 478.96(b). This requirement is consistent with a longstanding, historical tradition of age-based restrictions on firearms purchases, *see* Appellees’ Br. at 11-16, as well as the reasoned judgment of a significant majority of state governments, which regulate the ability of those under twenty-one to possess, purchase, or carry firearms.

I. COURTS CONSIDERING SECOND AMENDMENT CHALLENGES TO FEDERAL LAWS HAVE LOOKED TO STATE FIREARMS LAWS FOR GUIDANCE

Federal courts have frequently looked to state firearms laws in evaluating whether federal firearms regulations impinge on a right protected by the Second Amendment. This is consistent with the U.S. Supreme Court’s practice, across a number of areas of constitutional law, of considering the history of, and current status of, state legislation as part of its analysis.²

² *See, e.g., Obergefell v. Hodges*, 135 S. Ct. 2584, 2597, 2611 App. B (2015) (analyzing state court decisions and state legislation legalizing same-sex marriage in deciding whether the fundamental right to marry extends to same-sex couples); *Ring v. Arizona*, 536 U.S. 584, 608 n.6 (2002) (noting that “[o]f the 38 States with capital punishment, 29 generally commit sentencing decisions to juries” in deciding whether the Sixth Amendment requires a jury to find aggravating factors

For example, in *Heller v. District of Columbia*, 670 F.3d 1244 (D.C. Cir. 2011) (“*Heller II*”), the D.C. Circuit considered state and local legislation, among other factors, in deciding to uphold D.C.’s handgun registration requirement. The court noted that “the basic requirement to register a handgun is longstanding in American law, accepted for a century in diverse states and cities and now applicable to more than one fourth of the Nation by population,” and “[t]herefore, we presume the District’s basic registration requirement . . . does not impinge upon the right protected by the Second Amendment.”³ *Id.* at 1254. In his dissenting opinion in *Heller II*, then-Judge Brett Kavanaugh also acknowledged the significance of state regulation. *See id.* at 1288, 1292-93 (Kavanaugh, J., dissenting). He went on to observe that modern laws alone may “satisfy *Heller*’s history and tradition-based test” where there is “a strong showing that such laws

necessary for imposing the death penalty); *Washington v. Glucksberg*, 521 U.S. 702, 710-19 (1997) (examining state legislation concerning physician-assisted suicide in deciding whether right to assisted suicide is protected by Due Process Clause); *Payton v. New York*, 445 U.S. 573, 598-600 (1980) (examining state legislation concerning warrantless entry into the home to arrest in deciding whether such conduct violates the Fourth Amendment).

³ The court explained that “seven states require registration of some or all firearms,” including Hawaii, California, Michigan, New Jersey, Louisiana, Maryland and Connecticut, and “several states require sellers to report to law enforcement information about firearms sales identifying the purchaser and the firearm.” *Id.* at 1255.

are common in the states.” *Id.* at 1292 (concluding in dissent that such a showing could not be made with respect to the challenged restrictions).

In addition, in *United States v. Yancey*, 621 F.3d 681, 683-84 (7th Cir. 2010) (per curiam), the Seventh Circuit upheld a federal prohibition on the possession of firearms by unlawful users of or persons addicted to controlled substances, in part because many states had similar statutes:

As the government notes, many states have restricted the right of habitual drug abusers or alcoholics to possess or carry firearms. . . . These statutes demonstrate that Congress was not alone in concluding that habitual drug abusers are unfit to possess firearms. The state prohibitions, moreover, are merely the latest incarnation of the states’ unbroken history of regulating the possession and use of firearms dating back to the time of the amendment’s ratification. . . . That some of these restrictions are entrenched supports their constitutionality

Id. at 684.⁴

Finally, in a case challenging the same laws that are at issue here, the Fifth Circuit considered state legislation in deciding to uphold the constitutionality of 18

⁴ Similarly, the Ninth Circuit upheld the constitutionality of a federal statutory and regulatory scheme that prevented a holder of a medical marijuana registry card from purchasing a firearm, holding that “legislative determinations . . . support the link between drug use and violence.” *Wilson v. Lynch*, 835 F.3d 1083, 1093 (9th Cir. 2016). In support of this holding, the court noted that federal law bars unlawful drug users from possessing firearms and that “[a] majority of states have enacted similar restrictions on possession of firearms by habitual illegal drug users.” *Id.* at 1094 n.6 (citing *Yancey*, 621 F.3d at 683-84).

U.S.C. § 922(b)(1) and (c)(1), and attendant regulations, against a Second Amendment challenge. *See Nat'l Rifle Ass'n of Am., Inc. v. Bureau of Alcohol, Tobacco, Firearms, & Explosives*, 700 F.3d 185, 190 n.4 (5th Cir. 2012) (“*BATFE*”). The court found that “[m]ost of the States have gone beyond the federal floor,” as “[t]oday, all fifty States (and the District of Columbia) have imposed minimum-age qualifications on the use or purchase of particular firearms.” *Id.* Moreover, the court noted, “[t]wenty-nine States (and the District of Columbia) impose a minimum-age qualification only on the purchase or use of handguns,” and “[m]any States (and the District of Columbia) proscribe or restrict the sale of handguns to persons under 21 (by non-FFLs) or the possession of handguns by persons under 21.” *Id.*; *see also id.* at 202 n.16.⁵

As demonstrated, courts frequently consider state legislation in determining whether federal firearms restrictions impinge upon a right protected by the Second

⁵ In another federal lawsuit concerning an age-based firearms restriction, the District of Massachusetts examined legislation across the states in upholding a state statute prohibiting persons under the age of twenty-one from obtaining a license to carry a firearm. *See Powell v. Tompkins*, 926 F. Supp. 2d 367, 387 (D. Mass. 2013), *aff'd*, 783 F.3d 332 (1st Cir. 2015). The court noted that “[t]oday, all fifty states in the Union, as well as the District of Columbia, feature laws imposing age-based restrictions of firearms, and many of these laws set the minimum age for the possession and use of firearms at twenty-one.” *Id.* (citing *BATFE*, 700 F.3d at 190 n.4).

Amendment. We respectfully submit that in this case the Court should do the same.

II. THE LAWS OF NUMEROUS STATES REGULATING THE PURCHASE, POSSESSION AND CARRYING OF FIREARMS BY THOSE UNDER TWENTY-ONE SUPPORT THE FEDERAL MINIMUM-AGE RESTRICTION AT ISSUE HERE

Like the federal government, states across the country impose a variety of regulations on those under twenty-one seeking to possess, purchase, or carry firearms.⁶ These state laws vary in their effect and scope, but all clearly show that state legislatures across the country have concluded that these kinds of laws are necessary to protect public safety. As discussed in Part I, this sort of consensus legislative judgment is highly instructive and supports the constitutionality of the federal age restriction on firearm sales at issue here.

A. Laws Setting Twenty-One as the Minimum Age to Purchase Firearms

Nineteen states and the District of Columbia have joined the federal government in prohibiting gun dealers from transferring firearms to those under the age of twenty-one. *See* Addendum at 1. These states and D.C., like the federal

⁶ As the Department of Justice's brief discusses, "all 50 States and the District of Columbia have minimum-age qualifications for the use or purchase of some firearms." Appellees' Br. at 13. This section will focus on state level restrictions setting a minimum age of twenty-one.

government, have determined that public safety is best protected by imposing restrictions on firearms acquisition by young people, who are the most likely to misuse them. *See* Brief of Amicus Curiae Giffords Law Center to Prevent Gun Violence in Supp. of Def.’s Mot. to Dismiss, *Hirschfeld v. Bureau of Alcohol, Tobacco, Firearms and Explosives*, No. 3:18-CV-00103 (W.D. Va., Apr. 17, 2019) (summarizing social science justifications); Brief of Amicus Curiae Giffords Law Center to Prevent Gun Violence in Supp. of Appellees and Affirmance, *Hirschfeld v. Bureau of Alcohol, Tobacco, Firearms and Explosives*, No. 19-2250 (4th Cir., Feb. 19, 2020) (same). These nineteen states are among the most populous states in the nation, representing more than 163 million people and nearly half the U.S. population. *See* U.S. Census Bureau, *2019 National & State Population Estimates, Table 1, Annual Estimates of Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2010 to July 1, 2019* (Dec. 30, 2019), <https://bit.ly/2wjQ8uJ>. In fact, six of the ten most populous states—California, Florida, New York, Illinois, Ohio, and Michigan—prohibit FFLs from selling handguns to persons under twenty-one years of age.⁷ *See id.*

⁷ *See* California (Cal. Penal Code § 27510(a)); Florida (Fla. Stat. § 790.065(13)); Illinois (430 Ill. Comp. Stat. 65/2(a)(1), 65/3, 65/4(a)(2)(i-5)); Michigan (Mich. Comp. Laws § 28.422(1), (3)); New York (N.Y. Penal Law § 400.00(1)(a), (12)); Ohio (Ohio Rev. Code §§ 2923.21(A)(2), 2923.211(B)).

Six of these nineteen states—Vermont, Florida, Illinois, Washington, California, Hawaii—and the District of Columbia expand on the prohibition on handgun sales by firearms dealers to those under the age of twenty-one by prohibiting the sale of rifles and shotguns as well. *See* Fla. Stat. § 790.065; Haw. Rev. Stat. § 134-2(d); 430 Ill. Comp. Stat. 65/4(a)(2)(i), 65/8(a); Vt. Stat. tit. 13, § 4020; Wash. Rev. Code §§ 9.41.240(1), 9.41.080, 9.41.040; D.C. Code §§ 7-2502.03(a), 7-2507.06(a).

B. Laws Prohibiting Firearm Possession by Those Under the Age of Twenty-One

Several states have established a minimum age of twenty-one to possess handguns and other firearms. Illinois, Maryland, Massachusetts, New Jersey, New York and the District of Columbia go beyond the federal prohibition on gun dealers transferring handguns to those under the age of twenty-one and simply prohibit, with certain exceptions, the possession of handguns by those age twenty and under altogether. *See* 720 Ill. Comp. Stat. 5/24-3.1(a)(1); Md. Code Public Safety § 5-133; Mass. Gen. Laws ch. 140, § 131; N.J. Stat. § 2C:58-6.1; N.Y. Penal Law § 400.00(1); D.C. Code § 7-2502.03(a). Illinois and D.C. further require that a person reach the age of twenty-one to possess a rifle or shotgun. *See* 430 Ill. Comp. Stat. 65/4(a)(2)(i), 65/8(a); D.C. Code § 7-2502.03(a).

C. Laws Setting Twenty-One as the Minimum Age to Carry Firearms

When it comes to carrying a handgun in public, thirty-four states and D.C. prohibit those under the age of twenty-one from being issued a permit to carry a concealed firearm.⁸ Relatedly, thirty-three of those states and D.C. prohibit those under twenty-one from carrying a concealed firearm in public—a meaningful difference given that several states issue concealed carry permits, allowing permit-

⁸ See Alaska (Alaska Stat. § 18.65.705); Arizona (Ariz. Rev. Stat. § 13-3112(E)); Arkansas (Ark. Code § 5-73-309); Colorado (Colo. Rev. Stat. § 18-12-203(1)(b)); Connecticut (Conn. Gen. Stat. §§ 29-28, 29-35, 29-36f); Florida (Fla. Stat. § 790.06); Georgia (Ga. Code § 16-11-129(b)(2)(A)); Hawaii (Haw. Rev. Stat. § 134-9(a)); Illinois (430 Ill. Comp. Stat. 66/25); Iowa (Iowa Code § 724.8(1)); Kansas (Kan. Stat. § 75-7c04(a)(3)); Kentucky (Ky. Rev. Stat. § 237.110); Louisiana (La. Stat. § 40:1379.3(C)(4)); Massachusetts (Mass. Gen. Laws ch. 140, § 131); Michigan (Mich. Comp. Laws § 28.425b(7)(a)); Minnesota (Minn. Stat. §§ 624.713, 624.714); Mississippi (Miss. Code § 45-9-101(2)(b)(i)); Nebraska (Neb. Rev. Stat. § 69-2433); Nevada (Nev. Rev. Stat. § 202.3657); New Jersey (N.J. Stat. §§ 2C:58-3, 2C:58-4); New Mexico (N.M. Stat. § 29-19-4(A)(3)); New York (N.Y. Penal Law § 400.00(1)); North Carolina (N.C. Gen. Stat. § 14-415.12(a)(2)); Ohio (Ohio Rev. Code § 2923.125(D)(1)(b)); Oklahoma (Okla. Stat. tit. 21, § 1290.9(3)); Oregon (Or. Rev. Stat. § 166.291); Pennsylvania (18 Pa. Cons. Stat. § 6109); Rhode Island (11 R.I. Gen. Laws §§ 11-47-11, 11-47-18); South Carolina (S.C. Code § 23-31-215(A)); Texas (Tex. Gov. Code § 411.172(a)(2)); Virginia (Va. Code § 18.2-308.02); Washington (Wash. Rev. Code § 9.41.070); District of Columbia (D.C. Code § 7-2509.02(a)(1)); Wisconsin (Wis. Stat. § 175.60(3)(a)); Wyoming (Wyo. Stat. § 6-8-104).

holders to carry in other states with concealed carry reciprocity agreements, but do not require such a permit within the state.⁹

* * *

While states vary in the precise statutes they enact to regulate the possession and use of firearms by those under the age of twenty-one, the majority of states agree that public safety requires regulating persons under the age of twenty-one differently than those twenty-one or older. This type of consensus judgment of the deliberative and representative bodies of states across the country is strong evidence for the constitutionality of the federal law.

⁹ See Alaska (Alaska Stat. §§ 11.61.220(a)(6), 18.65.705.); Arizona (Ariz. Rev. Stat. §§ 13-3112(E), 13-3102(A)(2)); Arkansas (Ark. Code § 5-73-309); Colorado (Colo. Rev. Stat. § 18-12-203(1)(b)); Connecticut (Conn. Gen. Stat. §§ 29-28, 29-35, 29-36f); Florida (Fla. Stat. § 790.06); Georgia (Ga. Code § 16-11-129(b)(2)(A)); Hawaii (Haw. Rev. Stat. § 134-9(a)); Illinois (430 Ill. Comp. Stat. 66/25); Iowa (Iowa Code § 724.8(1)); Kansas (Kan. Stat. §§ 75-7c04(a)(3), 21-6302(a)(4)); Kentucky (Ky. Rev. Stat. § 237.110; S.B. 150, 2019 Reg. Sess. (Ky. 2019), § 1); Louisiana (La. Stat. § 40:1379.3(C)(4)); Massachusetts (Mass. Gen. Laws ch. 140, § 131); Michigan (Mich. Comp. Laws § 28.425b(7)(a)); Minnesota (Minn. Stat. §§ 624.713, 624.714); Nebraska (Neb. Rev. Stat. § 69-2433); Nevada (Nev. Rev. Stat. § 202.3657); New Jersey (N.J. Stat. §§ 2C:58-3, 2C:58-4); New Mexico (N.M. Stat. § 29-19-4(A)(3)); New York (N.Y. Penal Law § 400.00(1)); North Carolina (N.C. Gen. Stat. § 14-415.12(a)(2)); Ohio (Ohio Rev. Code § 2923.125(D)(1)(b)); Oklahoma (Okla. Stat. tit. 21, § 1272(A)); Oregon (Or. Rev. Stat. § 166.291); Pennsylvania (18 Pa. Cons. Stat. § 6109); Rhode Island (11 R.I. Gen. Laws §§ 11-47-11, 11-47-18); South Carolina (S.C. Code § 23-31-215(A)); Texas (Tex. Gov. Code § 411.172(a)(2)); Virginia (Va. Code § 18.2-308.02); Washington (Wash. Rev. Code § 9.41.070); District of Columbia (D.C. Code § 7-2509.02(a)(1)); Wisconsin (Wis. Stat. § 175.60(3)(a)); Wyoming (Wyo. Stat. §§ 6-8-104(a)(iv), (b)(ii)).

CONCLUSION

The Court should affirm the district court's judgment.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitations of Federal Rule of Appellate Procedure 29(a)(5) because it contains 2,763 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f). This brief also complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it is proportionally spaced and has been prepared using Times New Roman 14-point font.

Dated: February 19, 2020

By: /s/ Darren A. LaVerne
Darren A. LaVerne

No. 19-2250

**In the United States Court of Appeals
For The Fourth Circuit**

TANNER HIRSCHFELD; NATALIA MARSHALL,

Plaintiffs/Appellants,

– v. –

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES;
THOMAS E. BRANDON, in his official capacity as the Deputy and Acting
Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives;
JEFFERSON B. SESSIONS III, in his official capacity as Attorney General of the
United States,

Defendants/Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

ADDENDUM OF STATE AND TERRITORY STATUTES

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February 19, 2020

States and Territories Prohibiting Gun Dealers From Transferring Firearms To Those Under Twenty-One Years Of Age

State	Statutory Text	Source
CA	“A person licensed under Sections 26700 to 26915, inclusive, shall not sell, supply, deliver, or give possession or control of a firearm to any person who is under 21 years of age.” ¹	Cal. Penal Code § 27510(a).
CT	“No person shall sell, barter, hire, lend, give, deliver or otherwise transfer to any person under the age of twenty-one years any pistol or revolver, except that a pistol or revolver may be temporarily transferred to any person only for the use by such person in target shooting or on a firing or shooting range, provided such use is otherwise permitted by law and is under the immediate supervision of a person eligible to possess a pistol or revolver.”	Conn. Gen. Stat. § 29-34(b).
D.C.	“No person shall within the District of Columbia sell any pistol to a person who he or she has reasonable cause to believe is not of sound mind, or is forbidden by § 22-4503 to possess a pistol, or, except when the relation of parent and child or guardian and ward exists, is under the age of 21 years.”	D.C. Code § 22-4507.

¹ The statute allows the sale and transfer of firearms other than handguns and semiautomatic centerfire rifles to a person 18 years of age or older who possesses a valid, unexpired hunting license (with prerequisite training) or who is (i) an active or reserve peace officer or federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of his or her employment; (ii) an active member of the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States; or (iii) an honorably discharged member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States. Cal. Penal Code § 27510(b)(1)-(3). The exceptions for law enforcement and active and reserve members of the Armed Forces also apply to the sale or transfer of semiautomatic centerfire rifles. *Id.*

DE	No person shall sell “any pistol or revolver, or stiletto, steel or brass knuckles, or other deadly weapon made especially for the defense of one’s person,” Del. Code Ann. tit. 24, § 901, “to a person under the age of 21,” <i>id.</i> § 903.	Del. Code tit. 24, §§ 901, 903.
FL	“A person younger than 21 years of age may not purchase a firearm. The sale or transfer of a firearm to a person younger than 21 years of age may not be made or facilitated by a licensed importer, licensed manufacturer, or licensed dealer.” ²	Fla. Stat. § 790.065(13).

² This prohibition does not apply to the purchase of a rifle or shotgun by a law enforcement officer or correctional officer, or a servicemember. *See* Fla. Stat. § 790.065(13). It also does not apply to “employees of sheriff’s offices, municipal police departments, correctional facilities or agencies, or other criminal justice or governmental agencies when the purchases or transfers are made on behalf of an employing agency for official law enforcement purposes.” *Id.* § 790.065(14).

HI	<p>“(a) No person shall acquire the ownership of a firearm, whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner or unregistered, either by purchase, gift, inheritance, bequest, or in any other manner, whether procured in the State or imported by mail, express, freight, or otherwise, until the person has first procured from the chief of police of the county of the person’s place of business or, if there is no place of business, the person’s residence or, if there is neither place of business nor residence, the person’s place of sojourn, a permit to acquire the ownership of a firearm as prescribed in this section.”</p> <p>“(d) The chief of police of the respective counties may issue permits to acquire firearms to citizens of the United States of the age of twenty-one years or more, or duly accredited official representatives of foreign nations, or duly commissioned law enforcement officers of the State who are aliens”</p> <p>“(h) No person shall sell, give, lend, or deliver into the possession of another any firearm except in accordance with this chapter.”</p>	Haw. Rev. Stat. § 134-2(a), (d), (h).
IA	<p>“Any person who desires to acquire ownership of any pistol or revolver shall first obtain a permit. A permit shall be issued upon request to any resident of this state unless the person is subject to any of the following: . . . Is less than twenty-one years of age.”³</p>	Iowa Code § 724.15(1)(a).

³ There are certain exceptions to this requirement but none of these exceptions concern the minimum age for obtaining a permit. *See* Iowa Code § 724.15(2).

IL	<p>“No person may acquire or possess any firearm, stun gun, or taser within this State without having in his or her possession a Firearm Owner’s Identification Card [“FOID card”].” 430 Ill. Comp. Stat. 65/2(a)(1).</p> <p>“[N]o person may knowingly transfer, or cause to be transferred, any firearm, firearm ammunition, stun gun, or taser to any person within this State unless the transferee with whom he deals displays either: (1) a currently valid Firearm Owner’s Identification Card which has previously been issued in his or her name by the Department of State Police under the provisions of this Act; or (2) a currently valid license to carry a concealed firearm which has previously been issued in his or her name by the Department of State Police under the Firearm Concealed Carry Act.” 430 Ill. Comp. Stat. 65/3(a).</p> <p>“(a) Each applicant for a Firearm Owner’s Identification Card must: . . . (2) Submit evidence to the Department of State Police that: . . . (i-5) He or she is 21 years of age or over, or if he or she is under 21 years of age that he or she has never been convicted of a misdemeanor other than a traffic offense or adjudged delinquent and is an active duty member of the United States Armed Forces or has the written consent of his or her parent or legal guardian to possess and acquire firearms and firearm ammunition” 430 Ill. Comp. Stat. 65/4(a)(2)(i-5).</p>	430 Ill. Comp. Stat. 65/2(a)(1), 65/3(a), 65/4(a)(2)(i-5).
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MA	<p>“[N]o large capacity rifle or shotgun or large capacity feeding device therefor shall be sold to any person less than 21 years of age” Mass. Gen. Laws ch. 140, § 131E.</p> <p>“[W]hoever sells or furnishes to any person under 21 years of age a firearm or large capacity rifle or shotgun or ammunition therefor shall have the license to sell firearms, rifles, shotguns, machine guns or ammunition revoked and shall not be entitled to apply for such license for 10 years from the date of such revocation and shall be punished by a fine of not less than \$1,000 nor more than \$10,000, or by imprisonment in a state prison for not more than 10 years or by imprisonment in a house of correction for not more than 2 ½ years or by both such fine and imprisonment.” Mass. Gen. Laws ch. 140, § 130.⁴</p>	Mass. Gen. Laws ch. 140, §§ 130, 131E.
MD	<p>“(b) A dealer or other person may not sell, rent, loan, or transfer a regulated firearm to a purchaser, lessee, borrower, or transferee who the dealer or other person knows or has reasonable cause to believe: (1) is under the age of 21 years”</p> <p>“(d)(1) A person may not sell, rent, or transfer: (i) ammunition solely designed for a regulated firearm to a person who is under the age of 21 years”</p>	Md. Code, Public Safety § 5-134(b), (d)(1).

⁴ “[I]t shall be lawful to furnish a weapon to a minor for hunting, recreation, instruction and participation in shooting sports while under the supervision of a holder of a valid firearm identification card or license to carry appropriate for the weapon in use; provided, however, that the parent or guardian of the minor granted consent for such activities.” Mass. Gen. Laws ch. 140, § 130 1/2.

MI	<p>“(1) [A] person shall not purchase, carry, possess, or transport a pistol in this state without first having obtained a license for the pistol as prescribed in this section.”</p> <p>“(3) . . . An applicant is qualified [for a license] if all of the following circumstances exist: . . . (b) The person is 18 years of age or older or, if the seller is licensed under 18 USC 923, is 21 years of age or older.”</p>	Mich. Comp. Laws § 28.422(1), (3).
MO	<p>“A person commits the crime of transfer of a concealable firearm if such person violates 18 U.S.C. Section 922(b) or 18 U.S.C. Section 922(x).”</p>	Mo. Rev. Stat. § 571.080.
NE	<p>“[A] person shall not purchase, lease, rent, or receive transfer of a handgun until he or she has obtained a certificate in accordance with section 69-2404. . . . [A] person shall not sell, lease, rent, or transfer a handgun to a person who has not obtained a certificate.”⁵ Neb. Rev. Stat. § 69-2403(1).</p> <p>“Any person desiring to purchase, lease, rent, or receive transfer of a handgun shall apply with the chief of police or sheriff of the applicant's place of residence for a certificate. . . . An applicant shall receive a certificate if he or she is twenty-one years of age or older and is not prohibited from purchasing or possessing a handgun by 18 U.S.C. 922.” Neb. Rev. Stat. § 69-2404.</p>	Neb. Rev. Stat. §§ 69-2403, 69-2404.

⁵ A certificate is not required in certain circumstances, including where “[t]he person acquiring the handgun is authorized to do so on behalf of a law enforcement agency.” Neb. Rev. Stat. § 69-2403(2).

NJ	<p>“No person shall sell, give, transfer, assign or otherwise dispose of, nor receive, purchase, or otherwise acquire a handgun unless the purchaser, assignee, donee, receiver or holder is licensed as a dealer under this chapter or has first secured a permit to purchase a handgun as provided by this section.” N.J. Stat. § 2C:58-3(a)(1).</p> <p>“No handgun purchase permit or firearms purchaser identification card shall be issued: . . . (4) To any person under the age of 18 years for a firearms purchaser identification card and to any person under the age of 21 years for a permit to purchase a handgun[.]” N.J. Stat. § 2C:58-3(c).</p> <p>“No person shall sell, give, transfer, assign or otherwise dispose of handgun ammunition to a person who is under 21 years of age.” N.J. Stat. § 2C:58-3.3(c).</p> <p>“No person under the age of 18 years shall purchase, barter or otherwise acquire a firearm and no person under the age of 21 years shall purchase, barter or otherwise acquire a handgun, unless the person is authorized to possess the handgun in connection with the performance of official duties under the provisions of N.J.S.2C:39-6(a).” N.J. Stat. § 2C:58-6.1(a).</p>	N.J. Stat. §§ 2C:58-3, 2C:58-3.3(c), 2C:58-6.1(a).
NY	<p>“(1) . . . No license [to carry, possess, repair and dispose of firearms] shall be issued or renewed except for an applicant (a) twenty-one years of age or older, provided, however, that where such applicant has been honorably discharged from the United States army, navy, marine corps, air force or coast guard, or the national guard of the state of New York, no such age restriction shall apply”</p> <p>“(12) . . . Before delivering a firearm to any person, the licensee shall require him to produce either a license valid under this section to carry or possess the same, or proof of lawful authority as an exempt person”</p>	N.Y. Penal Law § 400.00(1), (12).

OH	<p>“No person shall . . . sell any handgun to a person who is under twenty-one years of age . . .” Ohio Rev. Code § 2923.21(A).</p> <p>“No person under twenty-one years of age shall purchase or attempt to purchase a handgun, . . .”⁶ Ohio Rev. Code § 2923.211(B).</p>	Ohio Rev. Code §§ 2923.21(A), 2923.211(B).
RI	<p>“Any citizen of the United States and/or lawful resident of this state who is twenty-one (21) years of age or older, and any nonresident member of the armed forces of the United States who is stationed in this state and who is twenty-one (21) years of age or older, may upon application purchase or acquire a pistol or revolver.” 11 R.I. Gen. Laws § 11-47-35(a)(1).</p> <p>“No person shall sell a pistol or revolver to any person under the age of twenty-one (21) . . .” 11 R.I. Gen. Laws § 11-47-37.</p>	11 R.I. Gen. Laws §§ 11-47-35(a)(1), 11-47-37.
VT	<p>“A person shall not sell a firearm to a person under 21 years of age. A person who violates this subsection shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both.”⁷</p>	Vt. Stat. Ann. tit. 13, § 4020(a).
WA	<p>“A person under twenty-one years of age may not purchase a pistol or semiautomatic assault rifle, and except as otherwise provided in this chapter, no person may sell or transfer a semiautomatic assault rifle to a person under twenty-one years of age.”</p>	Wash. Rev. Code § 9.41.240(1).

⁶ There are exceptions for law enforcement officers and active or reserve members of the armed services or national guard. *See* Ohio Rev. Code § 2923.211(B)(1)-(2).

⁷ This prohibition does not apply to “(1) a law enforcement officer; (2) an active or veteran member of the Vermont National Guard, of the National Guard of another state, or of the U.S. Armed Forces; (3) a person who provides the seller with a certificate of satisfactory completion of a Vermont hunter safety course or an equivalent hunter safety course that is approved by the Commissioner; or (4) a person who provides the seller with a certificate of satisfactory completion of a hunter safety course in another state or a province of Canada that is approved by the Commissioner.” Vt. Stat. Ann. tit. 13, § 4020(b).

WV	“[A] person may not knowingly sell, rent, give or lend, or where the person is other than a natural person, knowingly permit an employee thereof to knowingly sell, rent give or lend a firearm or ammunition to a person prohibited by any provision of this article or the provisions of 18 U.S.C. § 922.”	W. Va. Code § 61-7-10(d).
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CERTIFICATE OF SERVICE

I certify that on February 19, 2020, the foregoing proposed amicus brief was served on all parties or their counsel of record through the CM/ECF system.

Dated: February 19, 2020

By: /s/ Darren A. LaVerne
Darren A. LaVerne

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
APPEARANCE OF COUNSEL FORM

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Pro Bono Government

COUNSEL FOR: Everytown for Gun Safety Support Fund

_____ as the

appellant(s) appellee(s) petitioner(s) (party name) respondent(s) amicus curiae intervenor(s) movant(s)

/s/ Darren A. LaVerne
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CERTIFICATE OF SERVICE (required for parties served outside CM/ECF): I certify that this document was served on _____ by personal delivery; mail; third-party commercial carrier; or email (with written consent) on the following persons at the addresses or email addresses shown:

/s/ Darren A. LaVerne
Signature

February 19, 2020
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