

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**DWIGHT D. MITCHELL,**

Plaintiff,

vs.

**JENNIFER DAVENPORT et al.,**

Defendants.

Hon. Michael A. Shipp, U.S.D.J.  
Hon. Rukhsanah L. Singh, U.S.M.J.

Civil Action

Docket No. 3:26-cv-03986-MAS-RLS

---

**BRIEF IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY  
INJUNCTION**

---

*(Fed. R. Civ. P. 65; L. Civ. R. 65.1)*

# TABLE OF CONTENTS

TABLE OF AUTHORITIES .....	ii
I. INTRODUCTION .....	1
II. BACKGROUND.....	7
III. PROCEDURAL POSTURE .....	8
IV. LEGAL STANDARD .....	13
V. PLAINTIFF IS LIKELY TO SUCCEED ON THE MERITS .....	17
A. Second Amendment–The Mandate Burdens Protected Conduct .....	19
B. First Amendment – Compelled Disclosure and Identification .....	34
VI. BALANCE OF EQUITIES .....	37
VII. PUBLIC INTEREST .....	37
VIII. NARROW REQUESTED RELIEF .....	38
IX. CONCLUSION.....	39

## TABLE OF AUTHORITIES

### CASES

<i>303 Creative LLC v. Elenis</i> , 600 U.S. 570 (2023) .....	35
<i>Acierno v. New Castle County</i> , 40 F.3d 645 (3d Cir. 1994) .....	14, 16
<i>Agency for Int’l Dev. v. All. for Open Soc’y Int’l, Inc.</i> , 570 U.S. 205 (2013) .....	6, 35
<i>Americans for Prosperity Found. v. Bonta</i> , 594 U.S. 595 (2021) .....	36
<i>Arizona v. Johnson</i> , 555 U.S. 323 (2009) .....	21
<i>Artway v. Att’y Gen.</i> , 81 F.3d 1235 (3d Cir. 1996) .....	9
<i>Babbitt v. United Farm Workers Nat’l Union</i> , 442 U.S. 289 (1979) .....	9
<i>Brendlin v. California</i> , 551 U.S. 249 (2007) .....	22
<i>California v. Texas</i> , 593 U.S. 659 (2021) .....	11, 19
<i>Del. State Sportsmen’s Ass’n v. Del. Dep’t of Safety &amp; Homeland Sec.</i> , 108 F.4th 194 (3d Cir. 2024) .....	13, 14, 15, 27, 38
<i>District of Columbia v. Heller</i> , 554 U.S. 570 (2008) .....	40
<i>Elrod v. Burns</i> , 427 U.S. 347 (1976) .....	14, 15
<i>Ezell v. City of Chicago</i> , 651 F.3d 684 (7th Cir. 2011) .....	15
<i>Ex parte Young</i> , 209 U.S. 123 (1908) .....	7, 8
<i>Greater Phila. Chamber of Com. v. City of Philadelphia</i> , 949 F.3d 116 (3d Cir. 2020) .....	35
<i>Greenberg v. Lehocky</i> , 81 F.4th 376 (3d Cir. 2023) .....	10
<i>Hiibel v. Sixth Judicial Dist. Court</i> , 542 U.S. 177 (2004) .....	20, 24, 33, 35
<i>Hohe v. Casey</i> , 868 F.2d 69 (3d Cir. 1989) .....	14, 16
<i>Holland v. Rosen</i> , 895 F.3d 272 (3d Cir. 2018) .....	13
<i>Hurley v. Irish-Am. Gay, Lesbian &amp; Bisexual Grp.</i> , 515 U.S. 557 (1995) .....	35
<i>Kipke v. Moore</i> , No. 24-1799, slip op. at 35–36 (4th Cir. Jan. 20, 2026) .....	33

<i>Koons v. Att’y Gen. N.J.</i> , Nos. 23-1900 & 23-2043, order at 1–2 (3d Cir. Dec. 11, 2025) .....	27
<i>Koons v. Platkin</i> , 673 F. Supp. 3d 515 (D.N.J. 2023) .....	26, 27
<i>Koontz v. St. Johns River Water Mgmt. Dist.</i> , 570 U.S. 595 (2013) .....	6, 35
<i>Lara v. Comm’r Pa. State Police</i> , 125 F.4th 428 (3d Cir. 2025) .....	20, 27
<i>McDonald v. City of Chicago</i> , 561 U.S. 742 (2010) .....	20, 40
<i>MedImmune, Inc. v. Genentech, Inc.</i> , 549 U.S. 118 (2007) .....	9, 10, 12
<i>Michigan v. Long</i> , 463 U.S. 1032 (1983) .....	21
<i>Nat’l Inst. of Fam. &amp; Life Advocs. v. Becerra</i> , 585 U.S. 755 (2018) .....	4, 34
<i>Nat’l Shooting Sports Found. v. Att’y Gen. of N.J.</i> , 80 F.4th 215 (3d Cir. 2023) .....	10
<i>N.Y. State Rifle &amp; Pistol Ass’n v. Bruen</i> , 597 U.S. 1 (2022) .....	passim
<i>Nken v. Holder</i> , 556 U.S. 418 (2009) .....	13
<i>Pennsylvania v. Mimms</i> , 434 U.S. 106 (1977) .....	21
<i>Perry v. Sindermann</i> , 408 U.S. 593 (1972) .....	6, 35
<i>Presbytery of N.J. v. Florio</i> , 40 F.3d 1454 (3d Cir. 1994) .....	9, 12
<i>Range v. Att’y Gen.</i> , 124 F.4th 218 (3d Cir. 2024) .....	1, 26
<i>Reilly v. City of Harrisburg</i> , 858 F.3d 173 (3d Cir. 2017) .....	13–17, 35, 37, 38
<i>Revell v. Port Auth. of N.Y. &amp; N.J.</i> , 598 F.3d 128 (3d Cir. 2010) .....	33
<i>Riley v. Nat’l Fed’n of the Blind</i> , 487 U.S. 781 (1988) .....	4, 19, 34
<i>Rodriguez v. United States</i> , 575 U.S. 348 (2015) .....	21
<i>Roman Catholic Diocese of Brooklyn v. Cuomo</i> , 592 U.S. 14 (2020) .....	8, 14, 15, 16
<i>Susan B. Anthony List v. Driehaus</i> , 573 U.S. 149 (2014) .....	9–12
<i>Temple Univ. v. White</i> , 941 F.2d 201 (3d Cir. 1991) .....	16
<i>Terry v. Ohio</i> , 392 U.S. 1 (1968) .....	20, 21, 24, 33, 36

<i>United States v. Rahimi</i> , 602 U.S. 680 (2024) .....	passim
<i>United States v. Ubiles</i> , 224 F.3d 213 (3d Cir. 2000) .....	22
<i>Verizon Md., Inc. v. PSC</i> , 535 U.S. 635 (2002) .....	7
<i>Virginia v. American Booksellers Ass’n</i> , 484 U.S. 383 (1988) .....	9, 12
<i>W. Va. State Bd. of Educ. v. Barnette</i> , 319 U.S. 624 (1943) .....	35
<i>Winter v. Nat. Res. Def. Council, Inc.</i> , 555 U.S. 7 (2008) .....	13
<i>Wooley v. Maynard</i> , 430 U.S. 705 (1977) .....	4, 19, 34, 35

## STATUTES

28 U.S.C. §§ 1331, 1343(a)(3) .....	8
42 U.S.C. § 1983 .....	8
N.J. Stat. Ann. § 2C:58-4.4 .....	40
N.J. Stat. Ann. § 2C:58-4.4(b)(1)–(2) .....	passim
N.J. Stat. Ann. § 2C:58-4.4(c) .....	1
N.J. Stat. §§ 52:17B-98, 52:17B-103 .....	8

## RULES

Fed. R. Civ. P. 65 .....	Cover
Fed. R. Civ. P. 65(c) .....	16
L. Civ. R. 65.1 .....	Cover

## CONSTITUTIONAL PROVISIONS

U.S. Const. amend. I .....	4, 15, 19, 34, 35, 37
U.S. Const. amend. II .....	1, 14, 18, 19, 28, 33, 34, 39
U.S. Const. amend. IV .....	20, 21, 33

## HISTORICAL AUTHORITIES

2 Edw. 3, c. 3 (1328) .....	29
1 William Hawkins, A Treatise of the Pleas of the Crown ch. 63, § 9 (1716) .....	29
4 William Blackstone, Commentaries on the Laws of England 148–49 (1769) .....	29
1771 N.J. Laws ch. 539, § 10 .....	32
1784 N.Y. Laws 627 .....	31
1792 Mass. Acts 208 .....	31
1813 Ky. Acts 100, ch. 89 .....	31
1813 La. Acts 172 .....	31
Mass. Rev. Stat., ch. 134, § 16 (1836) .....	30

Me. Rev. Stat., ch. 169, § 16 (1840) ..... 30  
Mich. Rev. Stat., ch. 162, § 16 (1846) ..... 30  
Militia Act of 1792, ch. 33, 1 Stat. 271 ..... 32

**APPENDICES AND DEMONSTRATIVE EXHIBITS**

Appendix A – Selected Historical Excerpts (Supreme Court & Founding Sources)  
..... 19, 21, 28, 30–32  
Appendix B – Historical Analogue Comparison Table (Bruen/Rahimi Framework)  
..... 19, 21, 24, 26, 28–32

## **I. INTRODUCTION**

1. This case concerns a statutory condition imposed on the exercise of the right to bear arms. N.J. Stat. Ann. § 2C:58-4.4(b)(1)–(2). As applied here, the statute requires a law-abiding permit holder, when carrying a handgun or transporting one in a motor vehicle, to immediately disclose that fact and to display a permit to carry during a stop or detention. When the Second Amendment’s plain text covers the conduct, the State must justify such a burden by reference to this Nation’s historical tradition. *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 24–26 (2022); *Range v. Att’y Gen.*, 124 F.4th 218 (3d Cir. 2024) (en banc). See Supplemental Declaration ¶¶ 14–17, 21, 24–27.

2. Plaintiff seeks preliminary relief only as to N.J. Stat. Ann. § 2C:58-4.4(b)(1)–(2), as applied to the lawful exercise of public carriage, including vehicle-based transport of a handgun that is unloaded, locked, and not readily accessible to any occupant. The challenged requirements are triggered when a law-abiding permit holder is carrying or transporting a handgun and is stopped or detained in the ordinary course of travel. See Supplemental Declaration ¶¶ 6–8, 10–12. Plaintiff does not seek preliminary relief at this stage as to N.J. Stat. Ann. § 2C:58-4.4(c), which is reserved for full adjudication on the merits. For purposes of preliminary relief, Plaintiff relies primarily on his Second Amendment claim, with his compelled-speech claim providing independent and reinforcing support.

All other claims and theories of relief are preserved for adjudication on the merits.

3. New Jersey imposes criminal penalties for failure to comply with the disclosure-and-display requirements set forth in N.J. Stat. Ann. § 2C:58-4.4(b)(1)–(2). The statute applies when a permit holder is stopped or detained while carrying a handgun or transporting one in a motor vehicle. A violation of paragraph (b)(1) is a fourth-degree crime. A first violation of paragraph (b)(2) is a disorderly persons offense, and a second or subsequent violation is a fourth-degree crime. *Id.* As applied here, those obligations attach even when the handgun is unloaded, locked, secured in a container, vehicle safe, or trunk, and not readily accessible to any occupant. See Supplemental Declaration ¶ 9. The statute therefore requires a law-abiding permit holder, at the moment of a stop or detention, either to comply with compelled disclosure and permit display or to forgo public carriage and secured vehicle transport. See Supplemental Declaration ¶¶ 14–18, 25.

4. This case presents a narrow as-applied constitutional question: whether the State may impose criminal liability on a peaceable permit holder who, during routine vehicle travel, is transporting an unloaded handgun locked in the trunk or another secured container and not readily accessible to any occupant, unless he immediately volunteers that fact and displays his permit during any stop or detention. See Supplemental Declaration ¶¶ 6–9, 10–11. When the Second Amendment’s plain text covers the conduct, the Constitution presumptively

protects it, and the State must justify any modern burden by reference to a well-established and representative historical tradition that already exists in the historical record—not one that might be developed through further litigation or grounded in generalized public-safety interests alone. *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 24–30 (2022); *United States v. Rahimi*, 602 U.S. 680, 691–92 (2024). The question presented here is not whether officers may ask lawful safety questions, order a motorist to keep his hands visible, order a motorist out of the vehicle, or temporarily secure a weapon when otherwise authorized by law. It is whether New Jersey may categorically criminalize silence and nonproduction by a peaceable permit holder solely because he is engaged in lawful, secured, and not readily accessible vehicle transport.

5. The State cannot salvage this regime by narrowing it to either disclosure or display alone. Both requirements communicate the same compelled message—that the citizen is armed—at the precise moment he exercises the right to bear arms during ordinary travel. See Supplemental Declaration ¶¶ 24–27. A rule that forces a citizen to speak that message is unconstitutional. A rule that forces a citizen to convey the same message through compelled document production is equally unconstitutional. The Constitution does not permit the State to evade scrutiny by converting speech into conduct or conduct into speech where both function identically to compel the disclosure of protected information. See

*Riley v. Nat'l Fed'n of the Blind*, 487 U.S. 781, 795–97 (1988); *NIFLA v. Becerra*, 585 U.S. 755, 766–68 (2018).

6. This case also presents a related question under the First Amendment: whether the State may compel a law-abiding permit holder, during a stop or detention while engaged in otherwise lawful carriage or transport, to disclose the presence of a handgun and to display proof of licensure. The First Amendment protects both the right to speak and the right to refrain from speaking, and the State may not compel speech as a condition of exercising a constitutional right. See *Wooley v. Maynard*, 430 U.S. 705, 714 (1977); *Riley v. Nat'l Fed'n of the Blind*, 487 U.S. 781, 795–97 (1988). As applied here, the statute requires a permit holder to communicate a government-prescribed message—identifying the presence of a handgun and his status as a licensed carrier—because he is engaged in otherwise lawful conduct. See Supplemental Declaration ¶¶ 24–27.

7. The challenged requirements are not freestanding police regulations. They apply only when a citizen is exercising the right to bear arms—specifically, when a law-abiding permit holder is carrying or transporting a handgun. If the citizen is not exercising that right, the statute imposes no obligation. The disclosure and display requirements therefore do not regulate a separate activity; they attach to the exercise of the right and impose criminal liability for silence and noncompliance at that moment. A citizen who declines to carry faces no

obligation, while a citizen who exercises the right is subject to criminal liability for failing to disclose and display. That asymmetry confirms that the statute operates as a direct, penalty-backed condition on protected conduct, requiring justification under the framework set forth in *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 24–26 (2022). See Supplemental Declaration ¶¶ 15, 18, 28, 36.

8. Plaintiff is a licensed New Jersey permit-to-carry holder whose current declaration identifies specific, scheduled travel in the immediate weeks ahead, including advanced competition training and registered matches on May 2, May 3, May 6, May 10, May 13, May 15, 2026, May 16, May 20, May 22, June 5, June 7, June 14, June 20, and June 28, 2026 and beyond. See Ex. G; Supplemental Declaration ¶¶ 1, 3, 5–6, 9 & Exs. A, C, D, F. For those activities, Plaintiff transports his handguns unloaded and secured in a locked container placed in the trunk of his vehicle, separate from ammunition and not readily accessible to any occupant. *Id.* ¶ 9. Because New Jersey’s disclosure-and-display requirements impose criminal penalties during any stop or detention while traveling with a handgun in a motor vehicle, and because the State’s own guidance treats those obligations as mandatory and statewide, Plaintiff has ceased that otherwise lawful conduct and will resume it immediately upon entry of preliminary relief. *Id.* ¶¶ 2–3, 7–9, 18, 25, 29, 31 & Ex. B.

9. Plaintiff seeks narrow, as-applied preliminary relief preventing

enforcement of N.J. Stat. Ann. § 2C:58-4.4(b)(1)–(2) during stops arising in the ordinary course of travel where the handgun is unloaded, locked, and not readily accessible. See Supplemental Declaration ¶¶ 6–11. Absent that relief, Plaintiff must either forgo lawful public carriage and secured firearm transport or submit to compelled disclosure and permit display during such encounters. See Supplemental Declaration ¶¶ 2–3, 9, 18, 28. Because the challenged requirements apply during ordinary travel and are enforced through criminal penalties, they impose a present and ongoing constraint on Plaintiff’s exercise of his rights.

10. The challenged requirements impose an unconstitutional condition on the exercise of the right to bear arms. As applied here, N.J. Stat. Ann. § 2C:58-4.4(b)(1)–(2) requires a law-abiding permit holder engaged in lawful public carriage to disclose the presence of a handgun and display his permit on pain of criminal penalty. See Supplemental Declaration ¶¶ 14–18, 25. The unconstitutional-conditions doctrine bars the State from attaching that penalty-backed disclosure requirement to the exercise of a constitutional right. See *Agency for Int’l Dev. v. All. for Open Soc’y Int’l, Inc.*, 570 U.S. 205, 213–15 (2013); *Perry v. Sindermann*, 408 U.S. 593, 597 (1972); *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595, 604 (2013). Plaintiff therefore must either exercise the right while submitting to compelled disclosure and identification or avoid the compulsion only by forgoing public carriage. See Supplemental Declaration ¶¶ 2–

3, 11, 18. Because the obligation is triggered by ordinary exercise of the right during routine police encounters, not wrongdoing, the statute imposes a direct, penalty-backed condition on the right itself. See Supplemental Declaration ¶¶ 7–8, 10–11.

## **II. BACKGROUND**

11. Defendants are proper *Ex parte Young* defendants because they possess and exercise direct enforcement authority over the challenged statute. The Attorney General is charged with general supervision over criminal justice and ensures uniform statewide enforcement, including authority to supersede local prosecutions. N.J. Stat. Ann. §§ 52:17B-98, -103. The Superintendent of the New Jersey State Police oversees statewide traffic enforcement and firearms regulation. Where state officials, by virtue of their office, have a connection to enforcement of the challenged law, prospective relief is proper. See *Ex parte Young*, 209 U.S. 123, 157 (1908); *Verizon Md., Inc. v. Pub. Serv. Comm’n*, 535 U.S. 635, 642 (2002). That connection is concrete: statewide training materials and Attorney General–directed guidance instruct officers that permit holders must disclose the presence of a handgun and must display a permit during encounters in the ordinary course of life. See Supplemental Declaration ¶¶ 29, 31 & Ex. B (AG/NJSP Memorandum and NJSP Training Materials).

12. The disclosure and display requirements attach because Plaintiff is

exercising the right to bear arms pursuant to a permit to carry. They impose criminal liability for silence and nonproduction only when a law-abiding citizen is carrying or transporting a handgun; if the citizen is not exercising that right, no such obligation exists. Supplemental Declaration ¶¶ 15, 18, 28, 36. The statute therefore does not regulate a general activity independent of the right—it imposes a direct penalty-backed condition on the exercise of the right itself.

### **III. PROCEDURAL POSTURE**

13. Plaintiff brings this action under 42 U.S.C. § 1983 for prospective relief against state officials with enforcement authority pursuant to *Ex parte Young*, 209 U.S. 123, 155–56 (1908). This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1343(a)(3).

14. Plaintiff seeks preliminary relief to prevent the ongoing enforcement of an unconstitutional statute. Courts routinely resolve motions for preliminary injunction at the outset of constitutional litigation where delaying relief would permit ongoing injury to continue during the pendency of the case. *See Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020). Resolving the request for preliminary injunctive relief at this stage ensures that the constitutional injury alleged is addressed before further proceedings on the pleadings.

15. Plaintiff has Article III standing to seek pre-enforcement relief. He is the direct object of a self-executing criminal statute that applies by its terms

whenever a permit holder is “stopped or detained” while traveling with a handgun in a motor vehicle. N.J. Stat. Ann. § 2C:58-4.4(b)(1)–(2). A plaintiff need not expose himself to arrest before challenging a criminal statute when he intends to engage in conduct arguably protected by the Constitution, arguably covered by the challenged law, and faces a credible threat of enforcement. *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158–61 (2014); *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 128–29 (2007); *Babbitt v. United Farm Workers Nat’l Union*, 442 U.S. 289, 298 (1979). That is this case. Plaintiff is a current New Jersey permit holder who intends to resume lawful carriage and lawful vehicle-based transport during concrete, scheduled travel in the next 30 to 60 days. See Supplemental Declaration ¶¶ 3–5, 9–11 & Ex. A. The challenged statute directly governs that conduct and attaches criminal penalties if Plaintiff does not immediately disclose and display as the statute commands. See Supplemental Declaration ¶¶ 18, 38. See also *Artway v. Att’y Gen.*, 81 F.3d 1235, 1247–50 (3d Cir. 1996); *Presbytery of N.J. v. Florio*, 40 F.3d 1454, 1463–68 (3d Cir. 1994); *Virginia v. American Booksellers Ass’n*, 484 U.S. 383, 392–93 (1988).

16. Standing is especially clear because the challenged duties are not contingent on further administrative action. Once Plaintiff is traveling with a handgun in his vehicle, the disclosure duty and the permit-display duty attach automatically upon any covered stop or detention, and the State’s own guidance

treats both duties as mandatory and statewide. See Supplemental Declaration ¶¶ 29, 31, 38 & Ex. B. This case therefore does not involve an attenuated chain of future events; it involves a present choice between refraining from protected conduct now and exposing himself to criminal liability when he resumes it. *Susan B. Anthony List*, 573 U.S. at 159; *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 128–29 (2007).

17. This case is unlike the pre-enforcement challenges rejected in *Greenberg* and *National Shooting Sports Foundation*. There, the plaintiffs relied on a more attenuated or uncertain theory of future enforcement. Here, Plaintiff is the direct object of a self-executing criminal statute that applies by its terms whenever he is stopped or detained while lawfully carrying a handgun in public or traveling with a handgun in a motor vehicle. See N.J. Stat. Ann. § 2C:58-4.4(b)(1)–(2). His intended conduct is concrete, recurring, and imminent; his conduct is plainly covered by the statute; and Defendants have not disavowed enforcement. See Supplemental Declaration ¶¶ 3–5, 10–11, 28, 36, 38. *Greenberg v. Lehocky*, 81 F.4th 376, 388–94 (3d Cir. 2023); *Nat’l Shooting Sports Found. v. Att’y Gen. of N.J.*, 80 F.4th 215, 220–23 (3d Cir. 2023).

18. Plaintiff’s injury is redressable. Article III does not require that the requested relief eliminate every conceivable burden associated with public carriage; it requires only that the relief materially alleviate the injury alleged.

*California v. Texas*, 593 U.S. 659, 671 (2021). Plaintiff challenges the integrated disclosure-and-display regime imposed by § 2C:58-4.4(b)(1)–(2), which presently deters his lawful carriage and secured vehicle transport. An injunction preventing Defendants from enforcing that regime against Plaintiff in the circumstances pleaded here would eliminate the compelled announcement and compelled identification that currently restrain his conduct. See Supplemental Declaration ¶¶ 14, 17–18, 36. That is sufficient for redressability.

19. Plaintiff’s cessation of firearm transport since November 2025 confirms, rather than defeats, standing. A credible threat of prosecution produces present injury when it forces a plaintiff to alter or forgo intended conduct. *Susan B. Anthony List*, 573 U.S. at 158–61. Plaintiff has ceased transporting firearms not for independent personal or business reasons, but because the challenged statute imposes criminal liability at the moment he engages in otherwise lawful carriage and secured vehicle transport. See Supplemental Declaration ¶¶ 2–3, 11, 13, 16. That cessation is ongoing. At the same time, Plaintiff has identified specific, scheduled trips within the next 30-60 days that he will undertake immediately upon entry of preliminary relief, and he has also sworn that his planned travel is continuing and recurring. See Supplemental Declaration ¶¶ 3–5, 9–11 & Ex. A. This is not a subjective chill; it is a present restraint on concrete, dated, and recurring conduct directly caused by a criminal statute.

20. The threat of enforcement is reinforced by the State's own implementation of the challenged law. The Attorney General has issued guidance to law enforcement and firearms trainers, New Jersey State Police training materials treat the disclosure-and-display requirements as mandatory and statewide, and Defendants have not disavowed enforcement of § 2C:58-4.4(b)(1)–(2) in the circumstances presented here. See Supplemental Declaration ¶¶ 29, 31 & Ex. B. Where a criminal statute expressly covers a plaintiff's intended conduct, is implemented through uniform statewide guidance, and is not disavowed by enforcement authorities, the threat of enforcement is sufficiently concrete to support pre-enforcement standing. See *Presbytery of N.J.*, 40 F.3d at 1463–68; *Virginia v. American Booksellers Ass'n*, 484 U.S. at 392–93.

21. Ripeness is satisfied for the same reason. Plaintiff is not asking the Court to opine about some future enforcement scenario dependent on further contingencies. The challenged disclosure and display duties are fixed by statute, mandatory under State guidance, and triggered automatically whenever Plaintiff is stopped or detained while traveling with a handgun in a motor vehicle. See Supplemental Declaration ¶¶ 29, 31, 38 & Ex. B. No further administrative process, discretionary warning, or future implementing decision stands between Plaintiff and the compelled choice the statute imposes. *Susan B. Anthony List*, 573 U.S. at 159; *MedImmune*, 549 U.S. at 128–29.

#### **IV. LEGAL STANDARD**

22. A preliminary injunction requires Plaintiff to establish: (1) a likelihood of success on the merits; (2) irreparable harm in the absence of relief; (3) that the balance of equities favors relief; and (4) that an injunction serves the public interest. *Holland v. Rosen*, 895 F.3d 272, 285–86 (3d Cir. 2018); *Reilly v. City of Harrisburg*, 858 F.3d 173, 176–79 (3d Cir. 2017); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

23. In the Third Circuit, the first two preliminary-injunction factors—likelihood of success on the merits and irreparable harm—are gateway requirements. A movant must satisfy both before the Court proceeds to consider the remaining factors. If those requirements are met, the Court then evaluates the balance of equities and the public interest, which merge when the government is the opposing party. See *Reilly v. City of Harrisburg*, 858 F.3d 173, 176, 179 (3d Cir. 2017); *Del. State Sportsmen’s Ass’n v. Del. Dep’t of Safety & Homeland Sec.*, 108 F.4th 194, 202, 205 (3d Cir. 2024); *Nken v. Holder*, 556 U.S. 418, 435 (2009).

24. Plaintiff does not rely on any presumption of irreparable harm; he establishes it through concrete, time-specific facts and corroborating evidence. See *Del. State Sportsmen’s Ass’n v. Del. Dep’t of Safety & Homeland Sec.*, 108 F.4th 194, 203–05 (3d Cir. 2024). The challenged statute imposes an ongoing, present restraint on the exercise of constitutional rights during ordinary, unavoidable

encounters with law enforcement, forcing Plaintiff to choose between forgoing lawful carriage and secured vehicle-based transport or submitting to compelled disclosure and identification on pain of criminal sanction. See Supplemental Declaration ¶¶ 2–3, 6–8, 11, 14–18, 25–27, 29, 31; Exs. A–L. That harm is not speculative—it is occurring now and will continue during Plaintiff’s concrete, scheduled travel and training activities in the immediate weeks ahead. *Id.* ¶¶ 3–5, 9–11, 35–39; Exs. A, C, D, F, L. The resulting loss of Second Amendment freedoms and compelled speech during seizures constitutes irreparable injury as a matter of law, even for minimal periods of time. See *Elrod v. Burns*, 427 U.S. 347, 373 (1976); *Reilly v. City of Harrisburg*, 858 F.3d 173, 179–80 (3d Cir. 2017); *Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020); *Hohe v. Casey*, 868 F.2d 69, 72–73 (3d Cir. 1989); *Acierno v. New Castle Cnty.*, 40 F.3d 645, 653–55 (3d Cir. 1994). And under *Delaware State Sportsmen’s Ass’n*, because these injuries arise in real time and will recur during ordinary travel absent relief, they cannot be remedied after the fact, and preliminary relief is necessary to preserve meaningful judicial review.

25. Plaintiff’s showing is grounded in concrete, time-specific facts, not a generalized desire to exercise constitutional rights at some indefinite future time. Plaintiff has identified specific travel and competitive shooting events scheduled from May through July 2026 and has attested that he will immediately resume the

challenged conduct if preliminary relief is granted before those dates pass. The resulting injury is not confined to a single date but is ongoing and unfolding across that period, with each missed opportunity constituting a separate, nonrecoverable loss of constitutional exercise. Where, as here, the injury consists of time-sensitive, nonrecoverable losses of constitutional rights before a merits judgment can issue, preliminary relief serves its traditional equitable function of preserving meaningful judicial review. *See Del. State Sportsmen’s Ass’n*, 108 F.4th at 200–05; *Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 18–19 (2020). The inability to travel for training and competition with firearms also burdens conduct closely linked to the practical exercise of the right itself. *Cf. Ezell v. City of Chicago*, 651 F.3d 684, 704–08 (7th Cir. 2011).

26. Plaintiff also independently satisfies the irreparable-harm requirement through his compelled-speech claim. The statute forces him, on pain of criminal sanction, to communicate armed status and licensure during a seizure solely because he is exercising a constitutional right. The loss of First Amendment freedoms, even for minimal periods of time, constitutes irreparable injury. *Elrod v. Burns*, 427 U.S. 347, 373 (1976); *Reilly v. City of Harrisburg*, 858 F.3d 173, 179–80 (3d Cir. 2017). As applied to Plaintiff’s trunk-transport facts, each foregone trip and each compelled roadside disclosure is an immediate, non-compensable First Amendment injury. *See* Supplemental Declaration ¶¶ 14–18, 24–27; *Roman Cath.*

*Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020).

27. Because Plaintiff seeks to enjoin enforcement of an unconstitutional statute as applied and does not seek monetary relief, any bond requirement under Federal Rule of Civil Procedure 65(c) should be nominal or waived. Where an injunction serves to preserve constitutional rights, courts routinely exercise their discretion to reduce or eliminate the bond requirement. See *Temple Univ. v. White*, 941 F.2d 201, 219 (3d Cir. 1991).

28. Plaintiff's injury is immediate, ongoing, and irreparable because the challenged statute imposes a recurring, compelled choice during every instance of ordinary travel: speak on the State's command during a seizure or risk criminal liability. This is not a one-time harm—it is a repeated constitutional violation that arises each time Plaintiff drives on public roads. See Supplemental Declaration ¶¶ 7–8, 11, 18, 28, 39. The injury is therefore not merely the loss of isolated trips or events, but the ongoing subjection to a regime that conditions the exercise of constitutional rights on compelled speech during police encounters. Such compelled speech and self-identification, occurring during seizures and backed by criminal penalties, constitutes irreparable harm as a matter of law. See *Reilly v. City of Harrisburg*, 858 F.3d 173, 179 (3d Cir. 2017); *Hohe v. Casey*, 868 F.2d 69, 72–73 (3d Cir. 1989); *Acierno v. New Castle County*, 40 F.3d 645, 655 (3d Cir. 1994).

29. The timing of this action does not defeat irreparable harm. Delay may be relevant where it suggests that the asserted injury is not urgent, but it is not dispositive where a challenged law continues to impose present and ongoing effects on a plaintiff's conduct. See *Reilly v. City of Harrisburg*, 858 F.3d 173, 179 (3d Cir. 2017). Here, Plaintiff's injury renews each day he refrains from lawful public carriage and secured vehicle transport because of the challenged statute. See Supplemental Declaration ¶¶ 2–3, 11, 16, 18. The relevant question is whether Plaintiff faces an ongoing constitutional injury now in the ordinary course of life. He does.

#### **V. PLAINTIFF IS LIKELY TO SUCCEED ON THE MERITS**

30. Plaintiff's challenge is narrow. He does not contend that law enforcement may never ask whether a person is armed, may never secure a firearm during a lawful stop, may never order a motorist to keep his hands visible, may never direct a motorist to step out of a vehicle, or may never act on individualized suspicion. He challenges only New Jersey's blanket rule that a peaceable permit holder, on pain of criminal punishment, must immediately announce that he is carrying a handgun or that a handgun is stored in his vehicle, and must display his permit, whenever he is "stopped or detained" while lawfully carrying in public or lawfully traveling with a handgun in a motor vehicle. N.J. Stat. Ann. § 2C:58-4.4(b)(1)–(2). Under *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 24–26

(2022), when the Second Amendment’s plain text covers the conduct at issue, the State bears the burden of showing that this modern burden is consistent with the Nation’s historical tradition of firearm regulation. Under *United States v. Rahimi*, 602 U.S. 680, 691–92 (2024), the State must identify an analogue that is relevantly similar in both why and how it burdens the right. This case concerns a categorical, penalty-backed disclosure rule applied to peaceable permit holders—not case-specific officer conduct based on individualized suspicion.

31. For purposes of preliminary relief, the disclosure and display requirements must be analyzed as a single, integrated mandate because, as applied in routine trunk transport, each requirement independently and inevitably communicates the same compelled message: that Plaintiff is presently traveling with a handgun under authority of a carry permit. The State has structured § 2C:58-4.4(b)(1)–(2) so that compliance with either provision necessarily reveals the same information—armed status—whether conveyed verbally through disclosure or nonverbally through compelled permit display. See Supplemental Declaration ¶¶ 24–27. As applied to Plaintiff’s conduct, where the handgun is unloaded, locked, and not readily accessible, the display requirement does not function as a neutral licensing check; it operates as the State’s required mechanism for communicating firearm possession. See Supplemental Declaration ¶ 9. The provisions therefore rise or fall together. Any attempt to sever them would elevate form over substance

and permit the State to accomplish through compelled conduct what it cannot justify under the Second Amendment or the First Amendment.

32. Relief aimed at only one paragraph would not fully redress Plaintiff's injury. Enjoining paragraph (b)(1) alone would still force Plaintiff to reveal the same protected information through compelled permit display under paragraph (b)(2); enjoining paragraph (b)(2) alone would still force the same protected information through compelled verbal disclosure under paragraph (b)(1). A plaintiff-specific injunction as to both paragraphs in the single trunk-transport setting pleaded here is therefore the narrowest relief that completely redresses the constitutional injury. *California v. Texas*, 593 U.S. 659, 671 (2021); *Wooley v. Maynard*, 430 U.S. 705, 714–15 (1977); *Riley v. Nat'l Fed'n of the Blind of N.C., Inc.*, 487 U.S. 781, 795–97 (1988).

#### **A. Second Amendment—The Mandate Burdens Protected Conduct**

**Citations to Appendix A provide the underlying historical authorities; Appendix B summarizes those authorities in comparative form.**

33. Plaintiff's conduct falls within the Second Amendment's protection. He is a peaceable permit holder who seeks to engage in lawful public carry and, more specifically for purposes of this motion, lawful vehicle-based transport of handguns for self-defense-related training, instruction, and competition. See Supplemental Declaration ¶¶ 3–6, 10 & Exs. A, C, D, F. *Bruen* confirms that the right to “bear” arms includes public carry for lawful purposes, 597 U.S. at 32–33,

and once the Amendment’s plain text covers the conduct, the burden shifts to the State to demonstrate that the challenged regulation is consistent with the Nation’s historical tradition of firearm regulation. *Id.* at 24; *United States v. Rahimi*, 602 U.S. 680, 691–92 (2024); *Lara v. Comm’r Pa. State Police*, 125 F.4th 428, 440–42 (3d Cir. 2025); *McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010). The modern burden challenged here is not a pre-issuance licensing requirement. It is a real-time, penalty-backed obligation to volunteer armed status and prove licensure during ordinary travel. See Supplemental Declaration ¶¶ 14–18, 24–25, 27.

34. In conducting that historical inquiry, the Court may consider post-ratification evidence only insofar as it illuminates, rather than contradicts, the original meaning fixed at the Founding. *Lara v. Comm’r Pa. State Police*, 125 F.4th 428, 441 & n.19 (3d Cir. 2025). Thus, to the extent Defendants invoke later materials, those sources may confirm founding-era principles, but they cannot substitute for a founding-era tradition that does not exist.

35. *Hiibel* does not save § 2C:58-4.4(b)(1)–(2), and it is not the type of historical analogue that *Bruen* and *Rahimi* require. *Hiibel* was a modern Fourth Amendment case about what information an officer may demand during a valid Terry stop supported by reasonable suspicion, and even there the Court emphasized that the Nevada law, as construed, required disclosure of a name, not an admission of present gun possession or production of a firearms license. *Hiibel*

*v. Sixth Jud. Dist. Ct. of Nev., Humboldt Cnty.*, 542 U.S. 177, 185–88 (2004). New Jersey’s law goes materially further. It criminalizes the failure to volunteer firearm possession and separately compels display of a carry permit during any covered stop or detention, including while traveling with an unloaded, locked, and inaccessible handgun in a trunk. See Supplemental Declaration ¶¶ 9, 14–17, 24–25, 27. That is not a name-only identification rule tied to the mission of a Terry stop. It is a self-executing, carry-conditioned disclosure mandate. See App. A-10 at MITC0023 and App. B-5 at MITC0065. Terry itself depended on individualized reasonable suspicion, not a categorical duty imposed on all peaceable carriers. *Terry v. Ohio*, 392 U.S. 1, 21–27 (1968).

36. Existing Fourth Amendment doctrine already preserves legitimate officer-safety tools without authorizing a categorical self-reporting rule. During a lawful traffic stop, officers may order occupants out of a vehicle, *Pennsylvania v. Mimms*, 434 U.S. 106, 111 (1977); may frisk when there is reasonable suspicion that a person is armed and dangerous, *Arizona v. Johnson*, 555 U.S. 323, 327 (2009); may conduct a limited protective search of a vehicle when they reasonably believe a suspect is dangerous and may gain immediate control of weapons, *Michigan v. Long*, 463 U.S. 1032, 1049–50 (1983); and may take ordinary stop-related safety measures without prolonging the stop beyond its mission, *Rodriguez v. United States*, 575 U.S. 348, 354–55 (2015). Plaintiff does not challenge any of

those individualized authorities. His challenge is to New Jersey’s blanket criminal rule requiring a peaceable permit holder to speak first and document armed status solely because he is engaged in lawful travel with a handgun. The Third Circuit has rejected the notion that the mere presence of a firearm, where possession may be lawful, itself creates the individualized suspicion needed for heightened intrusion. *United States v. Ubiles*, 224 F.3d 213, 217–18 (3d Cir. 2000).

37. The burden imposed by § 2C:58-4.4(b)(1)–(2) is uniquely tied to the moment of seizure, when a citizen is most vulnerable and least able to exercise independent judgment. A traffic stop is a compelled interaction in which the citizen is not free to leave and must comply with officer commands. See *Brendlin v. California*, 551 U.S. 249, 255 (2007). By attaching criminal liability to silence at that moment, the State conditions the exercise of the right to bear arms on compelled self-identification during a seizure. See Supplemental Declaration ¶¶ 15, 18, 28, 36. That is not a peripheral burden—it is a condition imposed at the precise point where the right is exercised in public. The Constitution does not tolerate conditioning a fundamental right on compelled speech during a seizure absent a historically grounded analogue.

38. Even accepting the State’s most likely historical analogues—surety laws, going-armed or affray laws, and stop-and-identify doctrine—those analogues fail the “how” and “why” test required by *Bruen* and *Rahimi*. The trigger is

different: surety laws required a complaint, affray laws addressed terrorizing conduct, and stop-and-identify rules apply only during a valid stop supported by individualized suspicion, whereas § 2C:58-4.4(b)(1)–(2) is triggered automatically by lawful carriage or secured trunk transport during any stop or detention. See Supplemental Declaration ¶¶ 7–8, 10–12. The purpose is different: the historical laws addressed breaches of the peace or case-specific safety concerns, while the challenged regime compels disclosure and permit display from all peaceable carriers regardless of dangerousness. The breadth is different: historical regulations were limited to particularized circumstances, while the statute applies categorically to all permit holders. The sanction is different: surety laws imposed a forward-looking bond, while the challenged law imposes immediate criminal liability for silence and nonproduction. The nature of the burden is different: the historical analogues regulated dangerous conduct, not peaceable carriage, whereas the challenged statute imposes a status-based, speech-compelled obligation triggered solely by the lawful exercise of the right to bear arms. The timing is different: historical regulations operated after a complaint, suspicion, or breach of the peace, while the challenged regime imposes a real-time, stop-triggered obligation at the moment of a compelled police encounter. These differences are not marginal—they are dispositive. The State’s proposed analogues regulate dangerous conduct, not peaceable carriage; they are triggered by complaint or suspicion, not by lawful

exercise of a right; and they impose conditional or prospective measures, not immediate criminal liability for silence. The challenged statute, by contrast, compels a peaceable citizen to announce and document firearm possession solely because he is exercising the right to bear arms. No historical tradition imposed a comparable, penalty-backed duty of self-reporting during ordinary encounters. That absence is not a gap—it is affirmative evidence that the State’s regime is constitutionally unprecedented. See *Bruen*, 597 U.S. at 26–27.

See also App. B at MITC0056 (providing five consolidated comparison tables across distinct historical analogue categories, demonstrating the absence of any Bruen-compliant analogue).

The mismatch between the challenged regime and the State’s proposed analogues is summarized in abbreviated form below for ease of reference.

<b>Factor</b>	<b>Historical Analogues (Surety / Affray / Hiibel-type)</b>	<b>Challenged Statute (§ 2C:58-4.4(b)(1)–(2))</b>
<b>Trigger</b>	Complaint-based (surety laws); terrorizing conduct (affray laws); or individualized suspicion during a lawful stop (Terry, Hiibel)	Automatically triggered by lawful carriage or transport during any stop or detention
<b>Purpose</b>	Prevent breaches of the peace or address case-specific safety concerns	Compel disclosure of armed status and permit display from all permit holders regardless of danger
<b>Breadth</b>	Limited to particularized circumstances (complaint, threat, or suspicion)	Applies categorically to all permit holders engaged in lawful carriage or transport
<b>Sanction</b>	Preventive or conditional (peace bond or limited consequence)	Immediate criminal liability for silence or failure to display permit

<b>Nature of Burden</b>	Conduct-based regulation tied to dangerous behavior or suspicion	Status-based, speech-compelled obligation triggered solely by lawful exercise of the right
-------------------------	--	--

39. Generalized invocations of officer safety do not satisfy the State’s burden under *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 29–30 (2022), and *United States v. Rahimi*, 602 U.S. 680, 691–92 (2024), which require a historically grounded analogue—not a free-floating interest in safety. The government must justify a modern firearm regulation by reference to a tradition comparable in both its burden and its justification—the “how” and the “why.” *Rahimi*, 602 U.S. at 691–92. A categorical, stop-triggered duty requiring a peaceable permit holder to announce and document firearm possession during ordinary travel is not comparable to historical regulations addressing dangerous conduct, individualized complaints, or public terror. It instead imposes a modern, speech-compelled condition on the exercise of the right itself. The State cannot meet its burden by invoking officer safety at a high level of generality untethered to a representative historical tradition imposing a comparable communication duty on peaceable armed citizens.

40. The absence of any identified founding-era or Reconstruction-era law requiring a peaceable traveler to volunteer to a constable or other officer that he was carrying arms is especially significant here. Plaintiff does not challenge a pre-issuance licensing prerequisite or an individualized law-enforcement response to

dangerous behavior. He challenges a modern, stop-triggered duty of affirmative self-reporting by a peaceable permit holder engaged in ordinary travel. If Defendants cannot identify a well-established and representative historical analogue imposing a comparable communication duty in a comparable setting, they cannot satisfy Bruen’s second step. See *Bruen*, 597 U.S. at 24, 29–30; *Range v. Att’y Gen.*, 124 F.4th 218, 228–29, 234–35 (3d Cir. 2024) (en banc).

41. The absence of any historical analogue is not merely an omission in Plaintiff’s presentation; it is consistent with the historical record already examined by this District in closely related post-*Bruen* litigation involving firearm carriage during travel. In *Koons v. Platkin*, this Court held that New Jersey failed to support its restriction on functional firearms in vehicles with “well-established and representative historical firearm laws,” and further recognized that early American sources protected the carrying of firearms during ordinary travel, including a colonial New Jersey law providing that nothing therein should “prevent any Person carrying a Gun upon the King’s Highway in this Colony.” 673 F. Supp. 3d 515, 673–75 (D.N.J. 2023). Although *Koons* addressed a different burden and is cited here only as persuasive authority, its historical analysis underscores the absence of any tradition regulating peaceable carriage during ordinary travel in the manner attempted here. Plaintiff has reviewed the historical sources reflected in Appendix A and the comparative analysis set forth in Appendix B and is aware of no

historical law requiring a peaceable traveler to announce or document firearm possession during an ordinary encounter with a constable or other officer. If Defendants contend otherwise, *Bruen* requires them—not Plaintiff—to come forward with evidence—not conjecture—identifying a well-established and representative historical tradition imposing a comparable burden for a comparable justification. See *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 24–26 (2022); *United States v. Rahimi*, 602 U.S. 680, 691–92 (2024). Absent such a showing, the challenged disclosure-and-display regime remains constitutionally unsupported.

42. The State’s burden under *Bruen* is to identify a historical tradition that already exists in the record, not one that might be developed through further research or litigation.

43. The controlling frame comes from *Bruen*, *Rahimi*, *Lara*, and *Delaware State Sportsmen*, not from any vacated appellate decision in *Koons*. At most, *Koons* may be cited modestly as persuasive authority that this District has treated post-*Bruen* public-carry burdens, including vehicle-based transport, as merits questions requiring historical justification. See *Koons v. Platkin*, 673 F. Supp. 3d 515, 604–06 (D.N.J. 2023). But the subsequent Third Circuit panel opinion was vacated when rehearing en banc was granted and therefore has no precedential force. *Koons v. Att’y Gen. N.J.*, Nos. 23-1900 & 23-2043, order at 1–2 (3d Cir.

Dec. 11, 2025). Plaintiff therefore relies on the Supreme Court’s governing methodology and controlling Third Circuit authority, and Defendants must meet their historical-tradition burden under *Bruen* on the present record, rather than rely on generalized assertions or to develop such support through further litigation.

44. Historical tradition does not support a penalty-backed duty of immediate firearm disclosure and permit display during peaceable public carriage or secured vehicle-based travel. Once Plaintiff’s conduct is placed within the Second Amendment’s text, the State must show that its regulation is consistent with this Nation’s historical tradition of firearm regulation. *Bruen*, 597 U.S. at 34. The relevant historical materials fall into familiar categories—going-armed or affray laws, surety laws, concealed-carry laws, gunpowder storage and inspection laws, and militia inspection laws—but none is relevantly similar to a modern rule requiring a peaceable permit holder to communicate armed status to an officer during an ordinary encounter. Those historical regulations addressed dangerous or terrorizing conduct, individualized complaints, or distinct civic or safety concerns. They did not impose a categorical, carry-conditioned duty of compelled disclosure during the exercise of the right itself. See Supplemental Declaration ¶¶ 6–9, 14–18. See App. B-1 at MITC0057.

45. The relevant historical materials and governing Supreme Court excerpts are reproduced in Appendix A, and their application under the Bruen–

Rahimi framework is summarized in a concise comparative format in Appendix B. These appendices are provided as demonstrative aids to assist the Court in evaluating whether the State’s proposed analogues are “relevantly similar” in both how and why they burden the right. See *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 29–30 (2022); *United States v. Rahimi*, 602 U.S. 680, 691–92 (2024). As reflected in those materials, the historical record does not identify any analogue imposing a categorical, stop-triggered duty requiring peaceable citizens to disclose armed status or produce proof of licensure during ordinary encounters. The appendices organize the relevant historical categories by trigger, burden, justification, and sanction to permit a direct application of the Court’s analogue analysis.

46. The oldest English materials do not support the State’s position. The Statute of Northampton and its commentators addressed going armed in a manner that terrorized the public. See, e.g., 2 Edw. 3, c. 3 (1328); 1 William Hawkins, *A Treatise of the Pleas of the Crown* ch. 63, § 9 (1716) (describing the offense as arming oneself in a way that “naturally cause[s] a terror to the people”); 4 William Blackstone, *Commentaries on the Laws of England* 148–49 (1769) (treating “riding or going armed, with dangerous or unusual weapons” as a public-peace offense because it inspires terror). These sources target dangerous or terrorizing carriage—conduct akin to affray—not peaceable carriage or lawful transport by an otherwise

authorized citizen. A modern rule compelling immediate disclosure and permit display during ordinary encounters, regardless of complaint, threat, or breach of the peace, differs from those authorities in both its burden and its justification. See *Rahimi*, 602 U.S. at 691–92.

47. Nineteenth-century surety laws likewise are not relevantly similar. Those statutes required a person who went armed without reasonable cause to fear attack to post sureties for keeping the peace, but only upon a complaint by an individual with cause to fear injury or a breach of the peace. See, e.g., Mass. Rev. Stat., ch. 134, § 16 (1836); Me. Rev. Stat., ch. 169, § 16 (1840); Mich. Rev. Stat., ch. 162, § 16 (1846). These laws were reactive, individualized, and judicial. They required a complaint, a magistrate, and a forward-looking bond for good behavior. They did not impose an across-the-board duty on all peaceable carriers to communicate armed status to law enforcement during ordinary encounters. See App. A-6 at MITC0014 and App. B-2 at MITC0059. By contrast, the challenged statute imposes an automatic, stop-triggered obligation of immediate disclosure and permit display solely because the citizen is carrying or transporting a handgun. That is not a comparable burden imposed for a comparable justification. *Bruen*, 597 U.S. at 29; *Rahimi*, 602 U.S. at 691–92.

48. Early concealed-carry and manner-of-carry regulations do not support the State’s position. Antebellum statutes often restricted the carrying of concealed

weapons or addressed unnecessary or unusual public arming. See, e.g., 1813 Ky. Acts 100, ch. 89; 1813 La. Acts 172. These laws regulated the manner in which arms could be borne—whether openly or concealed—and, in some instances, targeted unnecessary or dangerous public carriage. They did not impose a duty on peaceable citizens to communicate to law enforcement that they were armed during ordinary encounters. If anything, these sources confirm the distinction between regulating how arms are carried and compelling speech about the presence of arms during the exercise of the right. A requirement of immediate disclosure and permit display during a stop is therefore not a comparable burden imposed for a comparable justification. *Bruen*, 597 U.S. at 29; *Rahimi*, 602 U.S. at 691–92. See App. A-13 at MITC0034 and App. B-3 at MITC0061.

49. The same mismatch defeats reliance on gunpowder storage laws and militia inspection laws. Founding-era powder laws regulated the storage, transport, and inspection of gunpowder to address fire hazards and commercial safety concerns. See, e.g., 1784 N.Y. Laws 627; 1792 Mass. Acts 208. Those enactments targeted explosive-material risks and urban safety, not the bearing of a handgun for self-defense during ordinary travel, and they did not require peaceable citizens to communicate armed status to law enforcement during routine encounters. Militia inspection laws are further afield still. Early statutes required enrolled militiamen to appear with arms for periodic muster and inspection as part of organized civic

duty. See, e.g., Militia Act of 1792, ch. 33, 1 Stat. 271. Those obligations were collective and institutional, not individualized and triggered by ordinary encounters with officers. They therefore bear no meaningful resemblance to a modern, stop-triggered requirement that a private citizen immediately disclose and document firearm possession solely because he is exercising the right to bear arms. *Bruen*, 597 U.S. at 29; *Rahimi*, 602 U.S. at 691–92. See App. A-13 at MITC0038 and App. B-4 at MITC0063.

50. Historical treatment of ordinary travel further reinforces the absence of any comparable tradition. Colonial and early American sources reflect that travel on public roads and highways did not carry a duty to disclose or render arms unusable. A 1771 New Jersey law expressly provided that nothing therein “shall be construed to extend to prevent any Person carrying a Gun upon the King’s Highway in this Colony.” 1771 N.J. Laws ch. 539, § 10. See App. A-12 at MITC0030. This evidence confirms that peaceable carriage during ordinary travel was not conditioned on compelled disclosure or identification to authorities. Rather than supporting the challenged regime, the historical record reflects the opposite principle: that lawful travel and the bearing of arms were understood to coexist without categorical, stop-triggered obligations imposed on peaceable citizens. See Supplemental Declaration ¶¶ 7–8, 10–11. See *Bruen*, 597 U.S. at 29; *Rahimi*, 602 U.S. at 691–92. See App. B-4 at MITC0063. Third Circuit transport precedent also

treats travel with unloaded, inaccessible firearms as a distinct category, even if the statutory safe-harbor question in that case turned on accessibility during an overnight interruption in travel. See *Revell v. Port Auth. of N.Y. & N.J.*, 598 F.3d 128, 135–36 (3d Cir. 2010).

51. The State’s likely modern authorities do not alter this conclusion because they involve different kinds of burdens. *Bruen* itself distinguished objective shall-issue prerequisites, such as background checks, fingerprinting, mental-health checks, training, and fees. 597 U.S. at 38 n.9. Those are pre-issuance conditions on obtaining a license. The burden challenged here is different: a post-issuance, stop-triggered criminal duty to volunteer armed status during ordinary travel and to prove licensure on the spot. Recent post-*Bruen* case law confirms the difference between an objective licensing prerequisite and a new burden attached to carrying itself. See *Kipke v. Moore*, No. 24-1799, slip op. at 35–36 (4th Cir. Jan. 20, 2026) (treating a requirement that carriers obtain consent before carrying in certain settings as a new burden on the right itself). And *Hiibel* remains a modern Fourth Amendment case about name disclosure during a valid Terry stop, not a historical analogue authorizing compelled firearm-specific speech under *Bruen* step two. 542 U.S. at 185–88.

52. As applied to Plaintiff’s conduct, § 2C:58-4.4(b)(1)–(2) burdens activity protected by the Second Amendment and does so through a form of

compelled disclosure for which the State can identify no relevantly similar historical analogue. Because the Second Amendment’s plain text covers Plaintiff’s lawful public carriage and secured vehicle-based transport, and because the challenged regime imposes a carry-conditioned, penalty-backed obligation unsupported by this Nation’s historical tradition, Plaintiff has demonstrated a reasonable probability of success on the merits. *Bruen*, 597 U.S. at 24, 29–32; *Rahimi*, 602 U.S. at 691–92.

### **B. First Amendment – Compelled Disclosure and Identification**

53. Section 2C:58-4.4(b)(1)–(2) independently burdens the First Amendment because it compels Plaintiff to communicate a state-mandated factual message during a stop or detention: that he is carrying a handgun or that a handgun is stored in his vehicle, and that he possesses state authorization to do so. This is not merely the incidental effect of a generally applicable identification requirement. It is compelled factual speech backed by criminal sanction. See *Wooley v. Maynard*, 430 U.S. 705, 714–15 (1977); *Riley v. Nat’l Fed’n of the Blind of N.C., Inc.*, 487 U.S. 781, 796–98 (1988); *Nat’l Inst. of Fam. & Life Advocs. v. Becerra*, 585 U.S. 755, 766–68 (2018). The compelled message is triggered only when Plaintiff exercises a constitutional right, making the speech requirement inseparable from the burden on that right. See Supplemental Declaration ¶¶ 14–17, 24–25, 27. The compelled-speech rule is at its apex where

the government forces a citizen to confess or convey a government-prescribed message on pain of sanction. See *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943); *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp.*, 515 U.S. 557, 573 (1995); *303 Creative LLC v. Elenis*, 600 U.S. 570, 588–96 (2023).

54. Once Plaintiff makes a colorable showing that protected speech is burdened, the State bears the burden at the preliminary-injunction stage to justify the restriction under the same framework that would govern on the merits. *Reilly v. City of Harrisburg*, 858 F.3d 173, 180 n.5 (3d Cir. 2017); *Greater Phila. Chamber of Com. v. City of Philadelphia*, 949 F.3d 116, 133 (3d Cir. 2020). That burden is especially demanding here because Plaintiff must speak only when he lawfully carries or transports a handgun; if he does not exercise the right, the speech obligation disappears. This penalty-backed linkage between protected conduct and compelled speech is the hallmark of an unconstitutional condition. See *Agency for Int'l Dev. v. All. for Open Soc'y Int'l, Inc.*, 570 U.S. 205, 213–15 (2013); *Wooley v. Maynard*, 430 U.S. 705, 714–15 (1977). The First Amendment therefore does not permit the government to make the exercise of one constitutional right the price of surrendering another absent sufficient tailoring. See *Perry*, 408 U.S. at 597; *Koontz*, 570 U.S. at 604.

55. The State cannot avoid First Amendment scrutiny by analogizing this regime to *Hiibel*. In *Hiibel v. Sixth Jud. Dist. Ct. of Nev., Humboldt Cnty.*, 542 U.S.

177, 188 (2004), the Supreme Court upheld a narrow requirement that a suspect disclose his name during a valid *Terry* stop because the request bore an immediate relation to the purpose, rationale, and practical demands of that stop. Section 2C:58-4.4(b)(1)–(2) is fundamentally different. It compels firearm-specific disclosure and permit display from all peaceable permit holders during any stop or detention, without regard to whether the firearm is accessible, whether the officer has reason to suspect unlawful firearm conduct, or whether any particularized safety concern exists. See Supplemental Declaration ¶¶ 6–9, 14–18. The obligation is triggered solely by Plaintiff’s lawful status as a permit holder carrying or transporting a handgun.

56. The challenged disclosure-and-display regime fails exacting scrutiny as applied to Plaintiff. Compelled disclosure requirements must bear a substantial relation to a sufficiently important governmental interest and must be narrowly tailored to that interest. *Americans for Prosperity Found. v. Bonta*, 594 U.S. 595, 615–16 (2021). Even assuming that officer safety is a sufficiently important interest, the challenged statute is not narrowly tailored. It applies categorically to all permit holders during ordinary travel, without regard to firearm accessibility, dangerousness, or any particularized basis for concern. See Supplemental Declaration ¶¶ 6–9, 14–18, 25. As applied to Plaintiff—who transports his handgun unloaded, locked, and secured in the trunk, and not readily accessible—

the compelled disclosure and permit display are untethered to the justification for an ordinary stop and broader than necessary to address legitimate safety concerns.

## **VI. BALANCE OF EQUITIES**

57. The balance of equities strongly favors preliminary relief. Plaintiff faces a present loss of constitutional rights and a continuing inability to engage in intended lawful carriage and secured vehicle-based transport absent an injunction. See Supplemental Declaration ¶¶ 2–3, 9–11, 18. By contrast, Defendants have no legitimate interest in enforcing an unconstitutional condition on the exercise of an enumerated right. See *Reilly v. City of Harrisburg*, 858 F.3d 173, 179 (3d Cir. 2017). The relief requested here is narrowly confined to Plaintiff and to the specific as-applied circumstances presented, and it preserves ordinary law-enforcement authority, including lawful questioning, lawful orders, lawful disarmament, lawful frisking, and actions supported by reasonable suspicion or probable cause.

## **VII. PUBLIC INTEREST**

58. Preliminary relief also serves the public interest. Plaintiff does not seek to dismantle New Jersey’s permitting system or to disable ordinary officer-safety measures during lawful stops. He seeks only to prevent enforcement of a carry-conditioned, compelled-disclosure and compelled-display regime that the State cannot justify under *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 24–

26 (2022), and cannot narrowly tailor under the First Amendment. The public has a strong interest in the protection of constitutional rights, and where the government is the opposing party that interest merges with the equities. See *Reilly v. City of Harrisburg*, 858 F.3d 173, 179 (3d Cir. 2017); *Del. State Sportsmen’s Ass’n v. Del. Dep’t of Safety & Homeland Sec.*, 108 F.4th 194, 205 (3d Cir. 2024).

### **VIII. NARROW REQUESTED RELIEF**

59. Plaintiff respectfully requests a narrow, plaintiff-specific, as-applied preliminary injunction enjoining Defendants from enforcing N.J. Stat. Ann. § 2C:58-4.4(b)(1) and (b)(2), whether separately or in combination, against him during routine vehicle stops or detentions when he is traveling with a handgun that is unloaded, locked in the trunk or another secured container, and not readily accessible to any occupant. This injunction must apply to both verbal disclosure and permit display because each independently compels the same communication of armed status. See Supplemental Declaration ¶¶ 14–17, 25. The requested relief does not restrict lawful officer-safety measures, questioning, or actions supported by reasonable suspicion or probable cause; it prohibits only the imposition of criminal liability for failing to volunteer or affirmatively communicate firearm possession in the absence of individualized justification.

60. The requested relief is narrow and administrable. It would not prevent officers from conducting lawful traffic stops, asking ordinary safety questions,

directing Plaintiff to keep his hands visible, ordering him out of a vehicle, temporarily securing a firearm when otherwise authorized by law, conducting a lawful frisk, or taking any action supported by reasonable suspicion or probable cause. It would bar only the imposition of criminal penalties based solely on Plaintiff's failure to volunteer that he has an unloaded, locked, and inaccessible handgun in the trunk, and solely on any derivative failure immediately to produce his permit as part of that same compelled disclosure.

## **IX. CONCLUSION**

61. Because the Second Amendment's plain text covers Plaintiff's lawful public carriage and lawful vehicle-based transport, and because the State cannot justify the challenged disclosure-and-display regime under *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 24–26 (2022), *United States v. Rahimi*, 602 U.S. 680, 691–92 (2024), and controlling Third Circuit methodology, Plaintiff has demonstrated a likelihood of success on the merits. On the present record, Defendants cannot meet their burden under *Bruen* to identify a well-established and representative historical analogue, and no further development of the record can cure that failure. Absent preliminary relief, Plaintiff will continue to suffer immediate and irreparable harm in the form of ongoing chilled constitutional exercise and recurring exposure to a coercive choice between compelled speech and criminal sanction. See Supplemental Declaration ¶¶ 2–3, 11, 18, 28, 36. A

narrow, plaintiff-specific injunction will preserve the status quo and prevent these continuing constitutional injuries while the Court adjudicates the merits on a full record.

62. Nothing in this motion or the Court’s disposition of Plaintiff’s request for preliminary relief should be construed to waive, limit, or resolve Plaintiff’s broader claims. Plaintiff’s Complaint challenges N.J. Stat. Ann. § 2C:58-4.4 on both facial and as-applied grounds, including as an unconstitutional burden on the right to “bear arms,” which encompasses carrying on the person as well as lawful vehicle-based transport. See *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 32 (2022); *District of Columbia v. Heller*, 554 U.S. 570, 584, 592 (2008); *McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010). The present motion proceeds in a narrower, as-applied posture solely for purposes of preliminary relief and does not abandon, narrow, or defer Plaintiff’s challenge to the statute in its entirety or in other applications. All claims, arguments, and theories are expressly preserved for adjudication on the full merits and for appellate review.

Respectfully submitted,

/s/ Dwight D. Mitchell  
Dwight D. Mitchell  
Plaintiff, Pro Se  
20 Summershade Circle  
Piscataway, NJ 08854  
Email: ddm@maa-imcs.com

Dated: April 26, 2026