

**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

**PLAINTIFF’S REPLY BRIEF IN FURTHER SUPPORT OF HIS MOTION
FOR PRELIMINARY INJUNCTION**

Return Date: June 11, 2026

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INTRODUCTION

1. This motion is narrow. It asks the Court to stop one thing only: enforcement of N.J. Stat. Ann. § 2C:58-4.4(b)(1)–(2) (the “MANDATES”) against Plaintiff when he transports an unloaded handgun locked in a trunk or other locked container, separate from ammunition, and not readily accessible to any occupant (the “POSTURE”). The rest of the case remains for later. PI Br. ¶¶ 1–4, 9–10; Supp. Decl. ¶¶ 6–10, 14–18; Reply Decl. ¶¶ 4–7.

2. That POSTURE matters. ECF No. 17 at 1–2, 4–5. The MANDATES do not regulate only on-person carriage. Section 4.4(b) reaches a permit holder who is “traveling with a handgun in a motor vehicle.” N.J. Stat. Ann. § 2C:58-4.4(b). The MANDATES then compel two state-scripted messages during a stop or detention: immediate disclosure that a handgun is present, and display of the permit. Noncompliance with paragraph (b)(1) is punishable as 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. New Jersey separately prescribed secured vehicle transport in N.J. Stat. Ann. § 2C:39-6(g), but that statute imposes no comparable stop-triggered duty to speak first or display a carry permit. PI Br. ¶¶ 2–5, 7, 10; Supp. Decl. ¶¶ 1–9, 24–31; Reply Decl. ¶¶ 4–7.

3. Defendants still do not meet the case Plaintiff has brought. ECF No. 17 at 1–3. They answer a different case—one about loaded on-person carry, generalized

officer safety, and speculative injury. This case concerns a peaceable permit holder who stopped traveling with his lawfully possessed handguns because the MANDATES force the same choice on every ordinary trip: forgo lawful transport, or submit to compelled firearm-status disclosure and permit display on pain of criminal or quasi-criminal sanction. That is present coercion, not speculation or self-inflicted injury. It is compliance under protest. PI Br. ¶¶ 15–21; Supp. Decl. ¶¶ 2–3, 9, 13–18, 28, 36–39; Reply Decl. ¶¶ 3(b), 4–6.

4. The injury is present. It is redressable. It is irreparable. And Defendants still identify no historical analogue for the MANDATES under *Bruen* and *Rahimi*. ECF No. 17 at 17–20. That omission matters now because the required tradition had to exist in the historical record; it could not be developed later or replaced by generalized public-safety interests. The Opening Brief and Appendices A–B supplied Plaintiff’s historical showing, and the Cramer Declaration independently confirms it. PI Br. ¶¶ 38–52 & Apps. A–B; Cramer Decl. ¶¶ 7–16, 58–71. If a representative tradition supported this stop-triggered disclosure-and-display burden, Defendants were required to identify it in their Opposition. They did not. Defendants cannot write the POSTURE out of the case because the statutory text and the State’s guidance both cover it. N.J. Stat. Ann. § 2C:58-4.4(b); Supp. Decl. ¶¶ 29–31 & Ex. B; Reply Decl. ¶ 4. Nor are the MANDATES freestanding police regulations; they attach only when Plaintiff carries or travels with a handgun.

Instead, Defendants ask the Court to avoid the Second Amendment inquiry by recasting the MANDATES as outside the Second Amendment, as ordinary shall-issue permit administration, or as justified by generalized officer safety. ECF No. 17 at 17–26. If the Court grants or denies relief, Plaintiff respectfully requests findings and conclusions specific enough to permit meaningful appellate review in the POSTURE, including the threshold, merits, and remedial grounds on which the ruling rests. Fed. R. Civ. P. 52(a)(2); Supp. Decl. ¶¶ 2, 9, 13–18, 35–39; Reply Decl. ¶¶ 3, 6–7; *N.Y. State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 24, 29–30 (2022); *United States v. Rahimi*, 602 U.S. 680, 691–92 (2024).

**THE STATUTE INFLICTS A PRESENT, REDRESSABLE,
IRREPARABLE INJURY**

A. Delay does not defeat irreparable harm.

5. Delay does not change any of this. Defendants measure delay from the wrong event. ECF No. 17 at 14–16. The relevant question is not when Chapter 131 was enacted or when Plaintiff received his permit. The question is when the injury crystallized in the POSTURE now before the Court. That happened when Plaintiff understood that New Jersey applies the MANDATES to the POSTURE, that noncompliance carries serious statutory penalties, and that each upcoming covered trip would force the same choice: abandon lawful transport or submit to compelled disclosure and permit display. Reply Decl. ¶¶ 3(a)–(b), 3(i), 4; Supp. Decl. ¶¶ 2, 9, 13–18, 28–31, 36–39. The relevant chronology therefore begins with the injury

actually pleaded, not with enactment or permit issuance.

6. The resulting chronology reflects diligence, not dormancy. ECF No. 17 at 2–3, 15–16. After the injury crystallized in November 2025, Plaintiff ceased the challenged conduct, prepared this case pro se while working full-time, filed the first action on February 15, 2026, completed service in March, and voluntarily dismissed and refiled one week later with a narrower PI request limited to the POSTURE. Reply Decl. ¶¶ 3(a)–(i), 17 & Ex. U. Nor is Plaintiff seeking an advisory ruling about a dormant statute. He seeks relief from the MANDATES’ present coercive effect now. The record identifies upcoming trips, training sessions, matches, instructional commitments, and recurring practice that require Plaintiff either to forgo lawful transport or submit to the MANDATES on pain of criminal or quasi-criminal sanction. Supp. Decl. ¶¶ 2–18, 28–31, 35–39; Reply Decl. ¶¶ 3(h), 5–6.

B. Article III does not force Plaintiff to risk prosecution first.

7. Article III does not force Plaintiff to risk prosecution first. ECF No. 17 at 8–10. Pre-enforcement standing exists when a plaintiff intends to engage in conduct arguably protected by the Constitution, the challenged law arguably forbids that conduct, and enforcement is credibly threatened. *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 159–64 (2014); PI Br. ¶¶ 15–21. Nor must a plaintiff break the law before seeking relief. *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S.

118, 128–29 (2007).

8. Plaintiff satisfies that standard with room to spare. ECF No. 17 at 8–10. The MANDATES apply by their own force whenever a permit holder is stopped or detained while “carrying a handgun in public or traveling with a handgun in a motor vehicle.” N.J. Stat. Ann. § 2C:58-4.4(b). They do not wait for discretionary future civil enforcement. They do not depend on a speculative enforcement chain. They attach automatically once the statutory trigger occurs. Plaintiff is therefore the direct object of a self-executing criminal or quasi-criminal statute, and state guidance treats the MANDATES as mandatory statewide obligations. PI Br. ¶¶ 15–21; Supp. Decl. ¶¶ 28–31, 36–39 & Ex. B; Reply Decl. ¶¶ 3–7.

C. This case does not rest on Clapper-type contingencies.

9. *NSSF* does not help Defendants. ECF No. 17 at 8–10. There, the Third Circuit found no ripe controversy because the challenged law authorized only a future civil action, the Attorney General had not enforced it against anyone, and the plaintiff offered little more than generalized chill and vague intended conduct. *Nat’l Shooting Sports Found. v. Att’y Gen. of N.J.*, 80 F.4th 215, 218–23 (3d Cir. 2023). Here the opposite is true. The MANDATES impose criminal or quasi-criminal duties on Plaintiff whenever a covered stop occurs, and the State has affirmatively instructed statewide enforcement. PI Br. ¶¶ 15–21; Supp. Decl. ¶¶ 29–31 & Ex. B. The difference between possible future civil litigation and a self-

executing, penalty-backed command is decisive.

10. Nor does this case depend on *Clapper*-style speculation. ECF No. 17 at 8–10. The relevant trigger is Plaintiff’s next ordinary trip in the POSTURE the MANDATES expressly cover. Once covered travel and a stop or detention occur, the MANDATES attach automatically. The record identifies concrete, recurring firearm-transport trips, prior roadside encounters and checkpoint stops on similar routes, substantial New Jersey highway travel, present cessation, and immediate resumption upon relief. Supp. Decl. ¶¶ 3–15, 35–39; Reply Decl. ¶¶ 3(b), 5–7. That is present coercion of recurring intended conduct, not a speculative chain of unrelated third-party choices.

D. Plaintiff's injury is present, ongoing, and redressable.

11. Defendants’ causation and “self-inflicted injury” points fail for the same reason. ECF No. 17 at 10–12, 16. Plaintiff did not stop transporting handguns because of private preference. The MANDATES compelled the change. Compliance under protest in the face of a credible enforcement threat is Article III injury, not consent. That is the premise of pre-enforcement review, not a defect in Article III standing. *MedImmune*, 549 U.S. at 128–29; *Susan B. Anthony List*, 573 U.S. at 158–64; PI Br. ¶¶ 15–21. *First Choice* confirms the same principle: compelled-disclosure injury exists not only when enforced, but “when it is made and for as long as it remains outstanding.” *First Choice Women’s Resource*

Centers, Inc. v. Davenport, 608 U.S. ___, 146 S. Ct. 1114, slip op. at 10–13, 15–19 (2026). Here, the MANDATES go further: they are self-executing, penalty-backed, and command speech during every covered stop in the POSTURE. Supp. Decl. ¶¶ 2, 16–18, 23, 28, 36; Reply Decl. ¶¶ 3(b), 4, 7.

12. Redressability is equally straightforward. ECF No. 17 at 12–13.

Redressability turns on the relationship between requested relief and the injury. *California v. Texas*, 593 U.S. 659, 671–72 (2021). Enjoining enforcement of the MANDATES against Plaintiff in the POSTURE would eliminate the stop-triggered disclosure-and-display duties now deterring that conduct. That relief matters because § 2C:58-4.4(b) expressly reaches a permit holder who is “traveling with a handgun in a motor vehicle,” while § 2C:58-4.5(a) separately addresses carrying concealed “on or about” the person. L. 2022, c. 131, §§ 5(b), 6(a); Reply Decl. ¶ 4. Plaintiff does not seek relief from N.J. Stat. Ann. § 2C:58-4.5 possession requirement. Nor can Defendants avoid redressability by distancing themselves from the statewide regime they supervise. The Attorney General and Superintendent are proper defendants because New Jersey centralizes firearms-enforcement authority at the state level, and statewide guidance treats disclosure and display as mandatory. N.J. Stat. Ann. §§ 52:17B-98, -103; PI Br. ¶¶ 1–7, 10–12; Supp. Decl. ¶¶ 14–18, 24–31, 34, 38; see Fed. R. Civ. P. 65(d)(2); *Ex parte Young*, 209 U.S. 123, 155–57 (1908).

13. Chief Judge Bumb’s holdings in the *Koons* litigation reinforce that conclusion. ECF No. 17 at 8–13. In *Koons v. Reynolds*, the court held that New Jersey permit holders challenging Chapter 131 had standing when they alleged ordinary intended conduct covered by the statute, faced criminal exposure if they resumed that conduct, and the State refused to disavow enforcement. *Koons v. Reynolds*, 649 F. Supp. 3d 14, 18–19, 27–29 (D.N.J. 2023). In *Koons v. Platkin*, the court held that the named State officials were directly responsible for enforcing New Jersey criminal laws, that the State would not forgo prosecution, and that injunctive relief would redress the threatened Chapter 131 injury. *Koons v. Platkin*, 673 F. Supp. 3d 515, 591–93, 598–600 (D.N.J. 2023). The same logic applies here: statewide, penalty-backed MANDATES deter the POSTURE Plaintiff seeks to resume, and the requested injunction would materially alleviate that injury.

14. *Siegel* reinforces the same point. In that companion Chapter 131 litigation, Chief Judge Bumb treated the challenged regime as inflicting a sufficiently real and immediate pre-enforcement injury on permit holders without requiring them to await prosecution. *Siegel v. Platkin*, 653 F. Supp. 3d 136, 147–50 (D.N.J. 2023). Read with *Koons*, *Siegel* confirms that Plaintiff’s injury is present and redressable now because the MANDATES presently deter ordinary travel by compelling firearm-status disclosure and permit display on pain of penalty.

E. Plaintiff faces ongoing irreparable harm.

15. Defendants' irreparable-harm argument fails for the same reason their standing argument fails: the coercive choice exists now. ECF No. 17 at 14–17. Under *Reilly*, likelihood of success and irreparable harm are the gateway factors. *Reilly v. City of Harrisburg*, 858 F.3d 173, 179 (3d Cir. 2017). On the First Amendment side, irreparable injury is presumed. *Veterans Guardian VA Claim Consulting LLC v. Platkin*, 133 F.4th 213, 218–20 (3d Cir. 2025); *Elrod v. Burns*, 427 U.S. 347, 373 (1976); *Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020). On the Second Amendment side, Plaintiff has made a concrete showing, as *Delaware State Sportsmen's Association* requires: ongoing cessation, imminent and recurring travel, compelled firearm-status speech, and nonrecoverable lost opportunities to train, compete, and carry lawfully. *Del. State Sportsmen's Ass'n v. Del. Dep't of Safety & Homeland Sec.*, 108 F.4th 194, 203–05 (3d Cir. 2024); PI Br. ¶¶ 24–29; Supp. Decl. ¶¶ 2–18, 35–39; Reply Decl. ¶¶ 3(b), 5–7.

16. The record is also corroborated by third-party evidence. ECF No. 17 at 16–17. Tony Oliveira confirms Plaintiff's complete cessation of scheduled match participation from January through April 2026, including approximately twelve missed competitions, and explains that those structured, scored opportunities are time-specific and cannot be recreated once missed. Supp. Decl. Ex. J ¶¶ 3–11.

Perry Alburg independently describes the same response by another New Jersey permit holder—prior carriage, cessation beginning in January 2026, suspended training, and ongoing abstention absent legal change—confirming objective deterrence rather than subjective chill. Supp. Decl. Ex. K ¶¶ 3–8. Stephen Mielle confirms that existing officer stop-safety tools remain generally sufficient in the POSTURE, tying Plaintiff’s abstention to the compelled disclosure-and-display requirement itself. Supp. Decl. Ex. I ¶¶ 4–6.

17. Chief Judge Bumb’s irreparable-harm analysis in the *Koons* decisions is likewise directly useful. ECF No. 17 at 14–17. Both decisions treated threatened enforcement of New Jersey’s new carry restrictions against already-vetted permit holders as a present, non-compensable injury warranting pre-enforcement equitable relief, particularly where plaintiffs altered day-to-day conduct rather than risk prosecution. *Koons v. Reynolds*, 649 F. Supp. 3d 14, 42–44 (D.N.J. 2023); *Koons v. Platkin*, 673 F. Supp. 3d 515, 665–67 (D.N.J. 2023). Plaintiff’s showing is narrower and more concrete: he has ceased permit-based transport in the POSTURE, identified imminent and recurring travel, and faces a compelled-speech burden during any covered stop if he resumes. That combination satisfies irreparable harm even without any free-floating presumption.

18. *Siegel* likewise strengthens irreparable harm. There, Chief Judge Bumb held that Chapter 131 threatened permit holders with severe criminal penalties if

they exercised their right to carry, making the threatened injury irreparable absent pre-enforcement relief. *Siegel v. Platkin*, 653 F. Supp. 3d 136, 161–62 (D.N.J. 2023). The same logic applies here with added First Amendment force, because Plaintiff must either forgo lawful transport or submit to compelled speech during a covered stop.

19. Independently, Plaintiff’s compelled-speech claim establishes irreparable injury. ECF No. 17 at 14 n.4, 16–17, 21–24. The loss of First Amendment freedoms, even briefly, is irreparable as a matter of law. Defendants’ reliance on *DSSA* therefore cannot dispose of the motion: whatever *DSSA* requires for Second Amendment harms, it does not erase an independent compelled-speech injury. PI Br. ¶¶ 53–56; Supp. Decl. ¶¶ 24, 27, 29–31; Reply Decl. ¶ 7; *Elrod v. Burns*, 427 U.S. 347, 373 (1976); *Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020).

THE MANDATES LIKELY VIOLATE THE SECOND AMENDMENT

20. The State’s merits theory starts at the wrong place. ECF No. 17 at 17–20. The conduct at issue is Plaintiff’s lawful bearing of arms through secured vehicle transport in the POSTURE—not “speech during a stop” in the abstract—and the MANDATES impose a penalty-backed condition triggered only when that protected conduct occurs. Front-end licensing prerequisites and post-issuance, stop-triggered, penalty-backed self-reporting commands are not the same burden,

and *Bruen*'s acceptance of objective shall-issue licensing does not immunize the latter. The State must justify the MANDATES themselves—not permitting in the abstract—by reference to a relevantly similar historical tradition. *Bruen*, 597 U.S. at 24, 29–30, 38 n.9; *Rahimi*, 602 U.S. at 691–92. Furthermore, Chapter 131 contains no waiver language for constitutional challenges to the MANDATES, and Defendants identify none. N.J. Stat. Ann. § 2C:58-4.4(b); PI Br. ¶¶ 1–7, 10–12, 30–34, 54; Supp. Decl. ¶¶ 14–18, 24–31, 34, 38; Reply Decl. ¶¶ 4, 7; Cramer Decl. ¶¶ 7–16, 58–63.

21. Nor can Defendants sever the POSTURE from the protected conduct that triggers N.J. Stat. Ann. § 2C:58-4.4(b). ECF No. 17 at 17–20. That conduct falls within the Second Amendment's text. *Heller* held that the Amendment protects the individual right to “possess and carry weapons in case of confrontation.” *District of Columbia v. Heller*, 554 U.S. 570, 592 (2008). *Bruen* then held that the Amendment's text draws no home-public distinction and that “bear” naturally includes public carry. *N.Y. State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 31–33 (2022). For a licensed citizen, secured vehicle transport in the POSTURE is a practical incident of that right. Plaintiff need not show that an unloaded handgun locked in a trunk is identical to a handgun carried on the person at the instant of self-defense. The State cannot sever lawful transport from lawful bearing and then regulate the severed piece as though the Second

Amendment vanished at the car door.

22. Once the text covers the conduct, the burden shifts to the State. ECF No. 17 at 18–20 & n.5. The State must show that the challenged restriction is consistent with this Nation’s historical tradition of firearm regulation. *Bruen*, 597 U.S. at 24, 29–30. Means-end appeals do not suffice. *Id.* at 24. And the analogue must impose a comparable burden for a comparably justified reason. *Rahimi*, 602 U.S. at 691–92. Defendants still do not carry that burden. The Opening Brief and Appendices A–B supplied Plaintiff’s historical showing; Cramer’s declaration independently confirms it. PI Br. ¶¶ 38–52 & Apps. A–B; Cramer Decl. ¶¶ 7–16, 58–71. Defendants offered no competing historical showing for this stop-triggered disclosure-and-display burden. That silence is not a reason to delay relief; under *Bruen* and *Rahimi*, it is a reason to grant it.

23. The State failed to answer that historical record and cannot claim surprise. Chapter 131 was enacted after *Bruen* and itself invoked Founding-to-Reconstruction analogues. L. 2022, c. 131, § 1(e)–(g). At the TRO stage in *Reynolds*, Chief Judge Bumb refused to withhold its ruling while the State sought more time to present historical evidence the Legislature represented it had. *Koons v. Reynolds*, 649 F. Supp. 3d 14, 25–26 (D.N.J. 2023). In *Platkin*, she later faulted the State for calling no witnesses and failing to present the promised historical evidence. *Koons v. Platkin*, 673 F. Supp. 3d 515, 542–43 (D.N.J. 2023). If a

representative tradition supported the MANDATES, Defendants were required to identify it. They did not.

24. That un rebutted historical mismatch is fatal under *Bruen* and *Rahimi*. The absence of a comparable analogue is not a gap in Plaintiff's proof; it is the State's failure of proof under the governing test. History may justify disarming a person found by a court to pose a credible threat to another's physical safety. *Rahimi*, 602 U.S. at 690–93. But Plaintiff is not such a person. He is a vetted permit holder. And the POSTURE is narrower still: the handgun is unloaded, locked away, separate from ammunition, and outside any occupant's immediate control. The historical analogues Defendants invoke do not impose a comparable burden on that conduct, and they are not comparably justified.

25. Defendants' modern authorities do not cure the problem. ECF No. 17 at 18–20. The MANDATES do something different from the laws addressed there: they send the burden into the stop itself and make disclosure and permit display conditions of continuing to exercise the right. *Maryland Shall Issue* addressed front-end licensing prerequisites; *Scheidt* addressed ordinary information-providing requirements, not right-triggered firearm-status self-reporting; and *Doe* addressed governmental collection and disclosure of firearm-owner information. None involved criminal or quasi-criminal punishment for silence during a roadside detention while an already licensed permit holder is in the POSTURE. *Md. Shall*

Issue, Inc. v. Moore, 116 F.4th 211, 226–27 (4th Cir. 2024); *United States v. Scheidt*, 103 F.4th 1281, 1284 (7th Cir. 2024); *Doe v. Bonta*, 101 F.4th 633, 640 (9th Cir. 2024).

THE MANDATES LIKELY VIOLATE THE FIRST AMENDMENT

26. The State’s threshold First Amendment defense is now foreclosed. ECF No. 17 at 21–24. In *Chiles v. Salazar*, the Supreme Court held that a law cannot evade First Amendment scrutiny just because the government labels it conduct regulation. What matters is whether the law regulates speech “in the case at hand.” *Chiles v. Salazar*, 607 U.S. ___, 146 S. Ct. 1010, slip op. at 12–13 (2026).

27. Defendants’ conduct-only framing fails because speech is the compliance here, and silence is the punishable act. ECF No. 17 at 21–23. The MANDATES require immediate firearm-status disclosure and, in the POSTURE, permit display confirming the same compelled fact: that Plaintiff is then transporting a handgun under state authority. Silence is punishable. So is non-display. That is compelled speech in the most ordinary sense. Plaintiff therefore challenges a penalty-backed firearm self-reporting requirement, not a name-identification rule, routine permit paperwork, or ordinary case-specific questioning. PI Br. ¶¶ 53–56; Supp. Decl. ¶¶ 24, 27, 29–31; Reply Decl. ¶ 7; see *Nat’l Inst. of Fam. & Life Advocs. v. Becerra*, 585 U.S. 755, 766–68 (2018); *Riley v. Nat’l Fed’n of the Blind of N.C., Inc.*, 487 U.S. 781, 795–98 (1988); cf. *Hiibel v. Sixth Jud.*

Dist. Ct. of Nev., Humboldt Cnty., 542 U.S. 177, 185–89 (2004).

28. The State cannot recast that command as routine identification. ECF No. 17 at 22–23. *Hiibel* upheld a narrow name-identification requirement during a valid *Terry* stop. *Hiibel*, 542 U.S. at 185–89. The MANDATES do something else. They force firearm-specific disclosure and permit display solely because Plaintiff is exercising the right to bear arms. That is not ordinary identification. It is a content-specific self-reporting requirement. In the POSTURE, oral disclosure and permit display communicate the same compelled fact: that Plaintiff is then transporting a handgun under authority of a permit during a seizure. Reply Decl. ¶ 7; PI Br. ¶¶ 31–32, 53–56. Plaintiff does not claim a right to resist case-specific questioning; he challenges a categorical, penalty-backed firearm self-reporting requirement.

29. Nor can the State avoid scrutiny by saying the law regulates conduct incidental to speech. ECF No. 17 at 22–23. *NIFLA* rejected any free-floating “professional speech” exception and warned that States cannot choose the level of First Amendment protection by attaching a license to speech. *Nat’l Inst. of Fam. & Life Advocs. v. Becerra*, 585 U.S. 755, 766–68, 773 (2018). *Veterans Guardian* applied that principle in this Circuit: when the regulated service is delivered by speaking or writing, and the law burdens that speech, the First Amendment applies. *Veterans Guardian VA Claim Consulting LLC v. Platkin*, 133 F.4th 213, 219–21

(3d Cir. 2025). The same rule controls here. The burden is not incidental to speech. Speech is the required act.

30. The governing compelled-speech cases confirm the same point. ECF No. 17 at 21–24. The government may not force a speaker to carry the State’s message. *Wooley v. Maynard*, 430 U.S. 705, 714–15 (1977). It may not alter the content of speech by command. *Riley v. Nat’l Fed’n of the Blind of N.C., Inc.*, 487 U.S. 781, 795–98 (1988). And compelled-disclosure regimes must be narrowly tailored even under exacting scrutiny. *Americans for Prosperity Found. v. Bonta*, 594 U.S. 595, 611–18 (2021). Calling the message factual or noncontroversial does not make the compulsion voluntary or remove it from compelled-speech scrutiny.

31. The MANDATES fail that test as applied here. ECF No. 17 at 23–24. They sweep across every covered stop. They make no distinction between an accessible firearm and an inaccessible one. They make no distinction between a stop supported by firearm suspicion and one supported by none. They make no distinction between a permit holder whose handgun is at his side and a permit holder in the POSTURE. The MANDATES compel the same speech in all cases even though narrower, officer-controlled tools remain available for actual risk. What the MANDATES add—a categorical command that the citizen speak first—is not tailoring. The First Amendment does not tolerate that shortcut.

32. The compulsion is equally clear under Third Circuit law. ECF No. 17 at

21–24. Compulsion exists when government “punish[es], or threaten[s] to punish” protected speech through “regulatory, proscriptive, or compulsory” action. *C.N. v. Ridgewood Bd. of Educ.*, 430 F.3d 159, 189 (3d Cir. 2005); accord *Bristol-Myers Squibb Co. v. Sec’y U.S. Dep’t of Health & Hum. Servs.*, 155 F.4th 245, 267 (3d Cir. 2025). New Jersey does exactly that: subsection (b)(1) punishes silence, and subsection (b)(2) penalizes nonproduction of the permit, which communicates the same state-prescribed message during a seizure. The MANDATES therefore trigger—not avoid—compelled-speech scrutiny.

33. Subsection (b)(2) belongs in the injunction because, in the POSTURE, compelled permit display communicates the same state-prescribed firearm-status message as oral disclosure; enjoining only one subsection would leave the same injury in place. Reply Decl. ¶ 7; Supp. Decl. ¶¶ 24, 27, 30; PI Br. ¶¶ 59–60.

**GENERALIZED OFFICER SAFETY CANNOT SAVE THE MANDATES
IN THIS POSTURE**

34. Defendants invoke officer safety at a level of generality that *Bruen* and *Rahimi* do not permit. ECF No. 17 at 23–26. Generalized modern interests and public safety cannot replace the State’s historical burden. Nor would the requested injunction disable ordinary stop-safety authority. The Reply Declaration confirms the practical point: existing officer-controlled tools remain adequate in the POSTURE, and Exhibits M–T show risk turns on sequencing, perception, and

tactics—not on a categorical command of immediate disclosure or mere firearm presence. Reply Decl. ¶¶ 2, 5, 8–16 & Exs. M–T; Supp. Decl. ¶¶ 9, 19, 25, 34 & Ex. I; PI Br. ¶¶ 56–60. The injunction would remove only the MANDATES’ requirements during an ordinary stop in the POSTURE, which is consistent with N.J. Stat. Ann. § 2C:39-6(g). *Bruen*, 597 U.S. at 24–30; *Rahimi*, 602 U.S. at 691–92.

THE EQUITIES AND PUBLIC INTEREST FAVOR PLAINTIFF-SPECIFIC RELIEF

35. Once the Court concludes that Plaintiff is likely to succeed and faces irreparable harm, the remaining factors favor relief as well. ECF No. 17 at 24–26; *Reilly*, 858 F.3d at 179. Chief Judge Bumb concluded that enjoining Chapter 131 restrictions against already-vetted permit holders would not materially harm other interested parties and that the public has no cognizable interest in enforcement of an unconstitutional restriction. *Koons v. Reynolds*, 649 F. Supp. 3d at 44–45; *Koons v. Platkin*, 673 F. Supp. 3d 515, 667–70. Plaintiff seeks narrower relief still: one permit holder, the POSTURE, and no impairment of ordinary officer-safety authority; the State has no legitimate interest in enforcing likely unconstitutional MANDATES, while Plaintiff’s loss of First Amendment freedoms and ongoing deterrence from exercising the right to bear arms are noncompensable.

36. Plaintiff therefore requests the narrow, plaintiff-specific Rule 65(d) relief set out in the Opening Brief, which preserves otherwise lawful questioning, exit

orders, frisks, protective vehicle measures, temporary securing measures, and actions supported by reasonable suspicion or probable cause. PI Br. ¶¶ 59–60; Fed. R. Civ. P. 65(d)(1)–(2). Because Plaintiff seeks only prospective constitutional relief and no monetary award, any bond should be waived or set at a nominal amount. Fed. R. Civ. P. 65(c).

CONCLUSION

37. The MANDATES fail because the absence of a comparable analogue is not a gap to be filled later; it is affirmative evidence that this stop-triggered disclosure-and-display regime is unprecedented. PI Br. ¶¶ 33–60 & Apps. A–B; Cramer Decl. ¶¶ 10–16, 58–71. Defendants identify no well-established tradition requiring peaceable armed travelers to announce armed status or display carry credentials during ordinary stops, and neither generalized officer safety nor permitting in the abstract satisfies *Bruen* and *Rahimi*. The MANDATES also compel speech first and ask questions later, even when Plaintiff is in the POSTURE. The Court should grant Plaintiff’s motion and enter the narrow, plaintiff-specific preliminary injunction requested above.

Respectfully submitted,

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