No. 07-290

IN THE
# Supreme Court of the United States

DISTRICT OF COLUMBIA AND ADRIAN M. FENTY,
MAYOR OF THE DISTRICT OF COLUMBIA,

*Petitioners*,

v.

DICK ANTHONY HELLER,

*Respondent*.

**On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit**

**BRIEF FOR AMICI CURIAE DC APPLESEED CENTER FOR LAW AND JUSTICE, D.C. CHAMBER OF COMMERCE, D.C. FOR DEMOCRACY, D.C. LEAGUE OF WOMEN VOTERS, FEDERAL CITY COUNCIL, AND WASHINGTON COUNCIL OF LAWYERS IN SUPPORT OF PETITIONERS**


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## INTEREST OF AMICI CURIAE

Amici are a broad and diverse group of organizations dedicated to improving the lives of the citizens of the District of Columbia (the "District").[1] These

[1] No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than the amici curiae, their members, or their

organizations represent leaders of the District's legal community, business community, and nonprofit community. All these organizations are strongly committed to an effective, accountable local government in the District, and believe that substantial deference should be paid by the Court to decisions made by locally-elected leaders on important local issues such as public safety. Amici therefore have a strong interest in this case, which involves the validity of an important and longstanding measure undertaken by the District's locally-elected government in order to protect the safety of its citizens. In the event this Court recognizes a new Second Amendment right to keep and bear arms that is not linked to militia service, amici urge the Court to accord substantial deference to the policy decisions of elected officials in the District and elsewhere who seek to protect public safety in a manner reflective of local conditions and local concerns. This brief sets out amici's views concerning how that deference should be accorded and why the District's policy decisions should be upheld in this case.

Amicus The DC Appleseed Center for Law and Justice ("DC Appleseed") is a nonprofit organization dedicated to solving pressing public policy problems facing the District of Columbia area. To advance this mission, DC Appleseed works with volunteer attorneys, business leaders, and community experts to identify those problems, conduct research and analysis, make specific recommendations for reform, and advocate effective solutions. DC Appleseed's projects include working with broad coalitions, issuing re-

counsel made a monetary contribution to its preparation or submission. The parties have consented to the filing of this brief.

ports, participating in regulatory proceedings, bringing lawsuits, managing public education campaigns, and meeting with and/or testifying before governmental decision-makers.

Founded in the Spring of 2004, amicus D.C. For Democracy is the District's largest unaligned progressive group of activists, community leaders and everyday voters working for positive change in our local government and recognition in America's legislature. Through its grassroots based efforts, D.C. for Democracy strives to promote wider political empowerment; higher levels of government integrity, performance, and transparency; socially progressive positions and fiscally responsible candidates; and a voting voice in America's national legislature.

Amicus the D.C. Chamber of Commerce ("Chamber") is the premier business organization in the District, representing more than 2,000 member organizations. Since its incorporation in 1938, the Chamber has worked aggressively to expand the economy in the District by attracting new jobs and creating economic opportunities for all District residents. It focuses on issues that impact the District's future growth and community development.

Ever since its founding at the start of the last century, amicus the District of Columbia League of Women Voters ("DCLWV") has been a non-partisan grassroots organization dedicated to the informed and active participation of citizens in government. DCLWV's advocacy on both national and local levels has targeted public safety as a primary goal.

Amicus the Federal City Council ("Council") is a non-profit, non-partisan organization that works for the improvement of the Nation's Capital. It is com-

posed of and financed by two hundred of the Washington, D.C. area's top business, professional, educational, and civic leaders. The Council is dedicated to assisting the District in making fundamental structural improvements to its economic, physical, and social welfare systems.

Since 1971, amicus the Washington Council of Lawyers has been the metro area's only voluntary bar association dedicated exclusively to promoting public interest practice of law and pro bono service. Its members represent every sector of the Washington legal community—lawyers and pro bono coordinators from law firms and law schools, lawyers from public interest groups, government agencies and congressional offices, as well as law students and members of law-related professions.

## SUMMARY OF THE ARGUMENT

Although the District of Columbia has made a compelling showing that the Second Amendment does not guarantee a private right to keep and bear arms unrelated to service in a militia, amici assume for the purposes of this brief that such a right exists. Amici urge the Court, if it finds such a right, to accord substantial deference to the decisions of elected officials who must decide how to regulate the availability and use of weapons in the interests of public safety and according to the particular needs, concerns, and conditions of their own communities.

Even assuming that the court of appeals was correct that the Second Amendment provides a private right to keep and bear arms unrelated to actual or prospective membership in a militia, this Court should nevertheless conclude that the right must be subject to reasonable regulation, with legislatures

having wide latitude to enact public safety regulations while appropriately preserving the ability of individuals to safely defend themselves and their families in their homes. It should not be the business of the federal courts to micromanage the myriad different kinds of laws that regulate the possession, use, and safe-handling of firearms and other weapons in furtherance of public safety.

Furthermore, under any appropriate conception of reasonableness, the District's regulation of the private right to keep and bear arms here is reasonable. There is not, and cannot be, an unlimited individual right to keep and bear any kind of arms for any purpose. Thus, any right to keep and bear arms that is divorced from militia service must necessarily be limited to legitimate uses, such as for self-defense in the home or for hunting, and must also be subject to reasonable public safety regulation. Although the District's law prohibits one kind of arms (handguns), as that law has been authoritatively interpreted it is reasonable because it preserves the ability of individuals to engage in legitimate self-defense in the home using other kinds of arms such as rifles or shotguns, provided they are lawfully owned and stored in a safe manner (*i.e.*, with trigger locks) that prevents unauthorized access by children or others.

## ARGUMENT

### I. ANY PRIVATE RIGHT TO KEEP AND BEAR ARMS MUST BE SUBJECT TO REASONABLE REGULATION IN FURTHERANCE OF PUBLIC SAFETY.

The District has explained in its own brief why the right to keep and bear arms under the Second

Amendment should be related to service in a well-regulated militia, and amici will not address that issue here. In the event, however, that the Court determines that there is a Second Amendment right unrelated to service in a militia, the Court will be required to determine the standard of review applicable to that right. Unlike the areas where the Court has properly accorded heightened scrutiny to alleged infringements of constitutional rights—such as content-based speech restrictions and racial classifications under the First and Fourteenth Amendments—the customary deference accorded to legislatures is warranted here in light of the language of the Second Amendment and the nature of the right it protects.

It is beyond dispute that the Second Amendment does not afford an unrestricted, unlimited right to possess and use any type of weaponry, at any time, or for any reason. Rather, as with other seemingly absolute rights afforded by the Constitution, the private right to keep and bear arms must necessarily be subject to reasonable public safety regulation. All governments—including the District by delegation from Congress—have an inherent police power that may be exercised to protect public safety. In determining whether any given exercise of that police power is consistent with the Second Amendment, the Court should accord substantial deference to the public safety determinations of elected officials.

### A. In Reviewing Regulations Under The Second Amendment, The Court Should Accord Substantial Deference To Local Officials' Exercise Of Their Police Powers.

States and localities have "traditionally * * * had great latitude under their police powers to legislate as to the protection of the lives, limbs, health, comfort, and quiet of all persons." *Medtronic, Inc*. v. *Lohr*, 518 U.S. 470, 475 (1996). That includes the District, whose local elected officials have been granted Congress's plenary police powers.[2] This Court has never viewed any constitutional provision as absolute, particularly when balanced against exercises of the police power intended to protect the safety of the citizenry. The Second Amendment should be no exception. Instead, because of the unique nature of the right protected and the competing—and undisputed—governmental need to preserve public health and safety, the traditional deference to reasonable exercises of the police power should apply in this context as well.

The Constitution abounds with rights that, while phrased in seemingly absolute terms, are subject to

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[2] *See Berman* v. *Parker*, 348 U.S. 26, 31-32 (1954) ("The power of Congress over the District of Columbia includes all the legislative powers which a state may exercise over its affairs" including "what traditionally has been known as the police power"); District of Columbia Self-Government and Governmental Reorganization Act, Pub. L. No. 93-198, § 87 Stat. 774, 302 (1973) ("[T]he legislative power of the District shall extend to all rightful subjects of legislation within the District consistent with the Constitution of the United States and the provisions of this Act"). This delegation of legislative authority is subject to Congressional veto, which was not exercised with respect to the statutes at issue here.

reasonable restrictions in furtherance of public safety. For example, although the Free Exercise Clause provides that "Congress shall make no law * * * prohibiting the free exercise" of religion, the Constitution affords religious practices no exemption from otherwise valid laws of general applicability. *See Employment Div., Dep't of Human Res.* v. *Smith*, 494 U.S. 872, 878-79 (1990). While the Contracts Clause provides that "[n]o state shall * * * pass any * * * Law impairing the Obligation of Contracts," States may nonetheless vary contract terms under reasonable exercises of the police power. *See Home Bldg. & Loan Ass'n* v. *Blaisdell*, 290 U.S. 398, 445 (1934). And even the otherwise exacting Free Speech Clause permits "reasonable restrictions on the time, place, or manner of protected speech." *Ward* v. *Rock Against Racism*, 491 U.S. 781, 791 (1989). Thus, as this Court noted long ago, just as other amendments are not absolute, neither is the Second Amendment. *See Robertson* v. *Baldwin*, 165 U.S. 275, 281-82 (1897) (the Amendment "is not infringed by laws prohibiting the carrying of concealed weapons").

Laws passed pursuant to the police power are generally entitled to substantial deference. As this Court has noted,

> safety measures carry a strong presumption of validity when challenged in court. If there are alternative ways of solving a problem, we do not sit to determine which of them is best suited to achieve a valid state objective. Policy decisions are for the state legislature, absent federal entry into the field.

*Bibb* v. *Navajo Freight Lines, Inc.*, 359 U.S. 520, 524 (1959) (Commerce Clause challenge); *see also Mani-*

*gault* v. *Springs*, 199 U.S. 473, 480 (1905) ("While [the police] power is subject to limitations in certain cases, there is wide discretion on the part of the legislature in determining what is and what is not necessary—a discretion which courts ordinarily will not interfere with.") (Contracts Clause challenge).

Such deference is particularly appropriate under the Second Amendment, given its language and the nature of the right protected. The plain language of the Amendment itself refers to a "well regulated" militia. Even if the right is not limited to the militia context, it is inconceivable that the Framers who established a right to keep and bear arms to ensure the existence of "well regulated" militia would at the same time prohibit reasonable regulation of weapons in private hands. Just as militia members in possession of arms protected by the Amendment must be well regulated, so too must private citizens in the event the Court holds that they have rights unrelated to militia service.

There is no basis under the Second Amendment for the near-fatal strict scrutiny that is applied, for example, to content-based restrictions under the Free Speech Clause of the First Amendment. Such laws are subjected to the most demanding scrutiny because mere words are almost always inherently benign and because all such regulation is thus inherently suspect. In other words, courts will exercise exacting review of content-based regulations affecting speech (as well as racial classifications under the Equal Protection Clause) because there is almost always no legitimate basis for such regulations. By contrast, the very conduct protected by the Second Amendment is inherently injurious and laws regulating weapons should therefore be given the customary

deference applied to all public safety regulations. Indeed the defining characteristic of any arms is the capacity to injure or kill human beings, which is precisely what the police power seeks to prevent.

While there are legitimate uses for weapons—such as for self-defense in the home or hunting—there are also numerous illegitimate uses that are gravely harmful to public safety. As the Court has already noted, there is no constitutional right to carry concealed weapons. *Robertson*, 165 U.S. at 281-82. And to state the obvious, there is no right to keep and bear weapons of mass destruction, to keep and bear arms in order to commit crimes, or to keep arms in an unsafe manner susceptible to misuse by children, felons, or the mentally ill. Given the vast number of ways in which weapons are injurious if used unsafely or for illegitimate purposes, there should be no doubt that legislatures may subject the right to keep and bear arms to reasonable public safety regulation. Thus, while the Court properly subjects content-based speech restrictions and racial classifications to the most demanding scrutiny, the nature of the right at issue here makes it qualitatively different.

The Court's Contracts Clause jurisprudence, while seemingly unrelated, is also instructive. The Contracts Clause is a facially absolute prohibition against any laws that impair the obligations of contract. This Court has long recognized, however, that an absolutist interpretation is incompatible with the nature of the right itself and with the myriad ways in which States may need to affect contractual obligations. "[T]he police power * * * is an exercise of the sovereign right of the Government to protect the lives, health, morals, comfort and general welfare of the people, and is paramount to any rights under

contracts between individuals." *Manigault*, 199 U.S. at 480. Thus, the "absolute language of the Clause must leave room for 'the "essential attributes of sovereign power," * * * necessarily reserved by the States to safeguard the welfare of their citizens.'" *Allied Structural Steel Co.* v. *Spannaus*, 438 U.S. 234, 244 (1978) (citations omitted). Because of these concerns, the Court has adopted a reasonableness test under that Clause: "[l]egislation adjusting the rights and responsibilities of contracting parties must be upon reasonable conditions and of a character appropriate to the public purpose justifying its adoption." *United States Trust Co.* v. *New Jersey*, 431 U.S. 1, 22 (1977).

A similar result should obtain here. As long as an exercise of police power that bears on the possession, use, or safe storage of weapons is reasonable, it should pass muster under the Second Amendment. The United States has recently advocated such a standard. *See* Brief for the United States in Opp'n at 20 n.3, *United States* v. *Emerson*, 536 U.S. 907 (2002) (No. 01-8780) (Second Amendment rights are "subject to reasonable restrictions"). Furthermore, reasonableness has been the standard under which local regulations of weapons have always been judged.

### B. The Right to Keep And Bear Arms Has Always Been Subject to Reasonable Regulation.

Reasonable government regulation of the right to bear arms has been a feature of Anglo-American law for more than 600 years. *See, e.g.*, Statute of Northampton, 2 Edw. 3, c.3 (1328) (prohibiting the carrying of arms "before the King's Justices, or other of

the King's Ministers" or in fairs or markets); William Blackstone, 1 *Commentaries* *139 (1765) (private right to bear arms is "subject to due restrictions"). Indeed, before the adoption of the Second Amendment, individual colonies regulated the right to bear arms in numerous ways. The Bill of Rights was "not intended to lay down any novel principles of government, but simply to embody certain guaranties and immunities which we had inherited from our English ancestors, and which had, from time immemorial, been subject to certain well recognized exceptions arising from the necessities of the case." *Robertson*, 165 U.S. at 281. Hence, as the right to keep and bear arms had from time immemorial been subject to reasonable regulation in the public safety interest, the Framers of the Second Amendment could not have intended otherwise.

For example, before adoption of the Second Amendment, Massachusetts barred the possession of loaded firearms in "any Dwelling House, Stable, Barn, Out-house, Ware-House, Store, Shop, or other Building" within the boundaries of Boston. Act of Mar. 1, 1783, ch. XIII, 1783 Mass. Acts 218. Pennsylvania conditioned the right to bear arms, including the storage of ammunition, upon the taking of a loyalty oath. 1778 Pa. Laws 123, 126, § 5. New York prohibited the use of firearms in certain locations and on certain occasions. Act of April 22, 1785, ch. 81, 1785 N.Y. Laws 152. Some localities even had the rough equivalent of modern day gun registration laws. *See*, *e.g.*, 1776 Mass. Acts 18, § 9 (mandating that "an exact List" of the members of the state militia and the members' "equipments" be kept).

State regulation of the private right to bear arms only increased after adoption of the Second Amend-

ment in 1791. *See* Saul Cornell & Nathan DiDino, *A Well-Regulated Right: The Early American Origins of Gun Control*, 73 Fordham L. Rev. 487, 505-06 (2004). The purpose of this increased regulation was to preserve public safety. For example, states enacted laws that prohibited the carrying of concealed weapons,[3] criminalized the sale of easily concealed weapons,[4] and limited the locations where firearms could be discharged.[5]

Reasonableness continues to be the standard employed today by the states in reviewing regulations on the possession, use, and safe storage of weapons. Many state constitutions expressly guarantee a non-militia right to keep and bear some type of arms for self-defense. *See* Eugene Volokh, *State Constitutional Rights to Keep and Bear Arms*, 11 Tex. Rev. Law & Pol. 191, 192 (2006). Courts in those jurisdictions, however, consistently review legislation governing the use, possession, and ownership of arms under a reasonable regulation standard.[6] These

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[3] Act of Mar. 18, 1859, 1859 Ohio Laws 56; Act of Feb. 2, 1838, ch. 101, 1838 Va. Acts 76; Act of Oct. 19, 1821, ch. 13, 1821 Tenn. Pub. Acts 15.

[4] Act of Dec. 25, 1837, 1837 Ga. Laws 90; Act of Jan. 27, 1838, ch. 137, 1838 Tenn. Pub. Acts 15.

[5] Act of Dec. 3, 1825, ch. CXXCII, 4, 1825 Tenn. Priv. Acts 306.

[6] *See*, *e.g.*, *Hoskins* v. *State*, 449 So. 2d 1269, 1270 (Ala. Crim. App. 1984); *City of Tucson* v. *Rineer*, 971 P.2d 207, 213 (Ariz. Ct. App. 1998); *Robertson* v. *City & County of Denver*, 874 P.2d 325, 329-30 (Colo. 1994); *Benjamin* v. *Bailey*, 662 A.2d 1226, 1233-34 (Conn. 1995); *State* v. *Rupp*, 282 N.W.2d 125, 130 (Iowa 1979); *Posey* v. *Commonwealth*, 185 S.W.3d 170, 180 (Ky. 2006); *People* v. *Swint*, 572 N.W.2d 666, 676 (Mich. Ct. App. 1997); *Heidbrink* v. *Swope*, 170 S.W.3d 13, 15 (Mo. Ct. App.

courts recognize that the right to keep and bear arms is not absolute, but rather is subject to the reasonable exercise of police power to protect public health, safety, and welfare. *See*, *e.g.*, *Benjamin*, 662 A.2d at 1233 (collecting cases); *Mosby* v. *Devine*, 851 A.2d 1031, 1044 (R.I. 2004) (same).

These decisions recognize and embody the deference that is owed to all public safety regulation. As one court explained in upholding an ordinance banning assault weapons, "unless there is a clear and palpable abuse of power, a court will not substitute its judgment for legislative discretion. Local authorities are presumed to be familiar with local conditions and to know the needs of the community." *Arnold*, 616 N.E.2d at 172-73 (internal quotation and citation omitted). *See also Posey*, 185 S.W.3d at 175-76 (in reviewing weapons regulations, courts "must always accord great deference to the legislature's exercise of [] so-called 'police powers,' unless to do so would 'clearly offend[] the limitations and prohibitions of the constitution.'") (citation omitted).

Even those jurisdictions that have interpreted state constitutions as guaranteeing a "fundamental" right to keep and bear arms have nevertheless reviewed firearms legislation under a reasonableness standard. *See Arnold*, 616 N.E.2d at 171-72; *State* v. *Cole*, 665 N.W.2d 328, 336-37 (Wis. 2003) (rejecting strict or intermediate scrutiny and noting that "[i]f this court were to utilize a strict scrutiny standard,

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2005); *State* v. *LaChapelle*, 451 N.W.2d 689, 690 (Neb. 1990); *State* v. *Ricehill*, 415 N.W.2d 481, 483 (N.D. 1987); *Arnold* v. *City of Cleveland*, 616 N.E.2d 163, 172 (Ohio 1993); *Mosby*, 851 A.2d at 1044; *State ex rel. West Virginia Div. of Natural Res.* v. *Cline*, 488 S.E.2d 376, 380-81 (W.Va. 1997); *Cole*, 665 N.W.2d at 338; *State* v. *McAdams*, 714 P.2d 1236, 1238 (Wyo. 1986).

Wisconsin would be the only state to do so"); *see also Robertson*, 874 P.2d at 329 (finding it unnecessary to determine whether Colorado Constitution guarantees a fundamental right to bear arms and applying reasonableness standard).

Under that standard, the critical inquiry is whether the legislation unreasonably infringes upon the right protected. This is a more searching inquiry than "rational basis" review, which asks only whether the legislature had a rational reason for its action. *See Mosby*, 851 A.2d at 1044 ("The test for determining the constitutionality of a ban on handguns is * * * whether the statute is a reasonable limitation of the right to bear arms, rather than a reasonable means of promoting the public welfare."). The reasonableness standard does not focus solely on whether the legislature has a legitimate purpose for its action, because that will almost always be true. *See Benjamin*, 662 A.2d at 1234 ("The constitutional right to bear arms would be illusory, of course, if it could be abrogated entirely on the basis of a mere rational reason for restricting legislation."). Instead, it focuses on the level of intrusion upon the right protected. *See Cole*, 665 N.W.2d at 338.

Recognizing the limits of their institutional competence as compared to that of legislatures, state courts considering state constitutional rights to keep and bear arms have almost always held that restrictions on weapons are reasonable. *See* Adam Winkler, *Scrutinizing the Second Amendment*, 105 Mich. L. Rev. 683, 717-18 (2007). This includes laws that ban entire categories of weapons, such as assault weapons, or that prohibit certain people (such as felons) from owning firearms. *Id.* at 720-21. *See also Robertson*, 874 P.2d at 333 (law banning assault

weapons did not "significantly interfere" with the right to bear arms guaranteed by Colorado Constitution); *Posey*, 185 S.W.3d at 181 (felon possession ban did not "unduly infringe upon the right to bear arms" under the Kentucky Constitution).

The substantial deference afforded by courts to state and local legislatures under the reasonableness standard is unsurprising given (1) the fundamental interests those legislatures have in protecting the health and safety their citizenry and (2) the ability of those elected officials to balance safety concerns against private interests. The interest of the District's legislature in striking that balance and in having its judgment on the issue paid deference is no less important than it was in the cited state cases.

The consistency of these state court pronouncements should prove a persuasive benchmark for this Court's consideration of the question presented in this case. Thus, if this Court recognizes a right to bear arms unrelated to militia service, it should follow this well-marked path and hold that reasonableness is the appropriate level of scrutiny in this case. *See*, *e.g.*, *Harmelin* v. *Michigan*, 501 U.S. 957, 966 (1991) (reviewing state constitutions as aid in interpreting Eighth Amendment prohibitions of cruel and unusual punishment); *Benton* v. *Maryland*, 395 U.S. 784, 795-96 (1969) (examining state constitutions to interpret Fifth Amendment guarantee against double jeopardy).

### C. Deference Is Warranted In Light Of The Myriad Different Ways In Which The Possession, Use, And Safe Handling Of Weapons May Be Regulated In The Interests Of Public Safety.

Were this Court to conclude that there is a private right to keep and bear arms that is not subject to reasonable regulation, it would open the floodgates to challenges of numerous weapons regulations. It would also place the federal courts in the unenviable position of determining which of those laws were narrowly tailored to serve a compelling governmental interest based on the often highly specific facts of each law and the interests of each jurisdiction. The Court should refrain from adopting any such standard. To do so would require the courts to violate fundamental principles of federalism and separation of powers by second-guessing difficult public safety issues that should be left to the judgment of elected officials—provided those judgments are reasonable.

Localities, including the District, should not be foreclosed from "experimenting and exercising their own judgment in an area to which States lay claim by right of history and expertise * * *." *United States* v. *Lopez*, 514 U.S. 549, 583 (1995) (Kennedy, J., concurring). This includes firearms regulation, which has traditionally been left to each locality to determine according to its own particular needs and conditions. For example, as Justice Kennedy noted in *Lopez*,

> [w]hile it is doubtful that any State, or indeed any reasonable person, would argue that it is wise policy to allow students to carry guns on school premises, considerable disagreement exists about

> how best to accomplish that goal. In this circumstance, the theory and utility of our federalism are revealed, for the States may perform their role as laboratories for experimentation to devise various solutions where the best solution is far from clear.

*Id*. at 581. The District's elected officials have chosen one path that recognizes the District's particular circumstances as a densely populated urban area plagued with gun violence, while other localities have gone in different directions.

Indeed, state and local governments nationwide have enacted a broad range of statutes and ordinances governing the types of permissible arms;[7] places where arms are prohibited;[8] who has the right

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[7] *See*, *e.g.*, Ala. Code § 13A-11-53 (banning brass knuckles and slingshots); Ariz. Rev. Stat. Ann. §§ 13-3101, 13-3102 (banning grenades, mines, automatic firearms, nunchakus, etc.); Colo. Rev. Stat. § 18-12-102; Fla. Stat. § 790.221 (banning machine guns and short-barreled rifles and shotguns); Ga. Code Ann. §§ 16-11-122, 16-11-123 (banning rocket launchers, short-barreled rifles and shotguns, machine guns, etc.); Ind. Code § 35-47-5 (banning machine guns, throwing stars, sawed-off shotguns, etc.); Md. Code Ann. § 4-303 (banning assault pistols); Tex. Penal Code Ann. § 46.05 (banning explosive weapons, machine guns, short-barreled firearms, silencers, switch-blade knives, knuckles); Wis. Stat. § 941.24 (banning switch-blade knives); Chicago Mun. Code § 8-20-050 (banning machine guns, sawed-off shotguns, short-barreled rifles, and certain handguns); Denver Mun. Code § 38-130 (banning assault weapons); L.A. Mun. Code ch. V, art. 5 § 55.16 (banning sale of ultra-compact firearms).

[8] *See*, *e.g.*, Ariz. Rev. Stat. Ann. §§ 13-3101, 13-3102 (school grounds, election polling places); Colo. Rev. Stat. § 18-12-105.5 (public school grounds); Idaho Code Ann. § 18-3302D (school property); Ind. Code § 35-47-9-2 (school property and buses); Md. Code Ann. § 4-102 (school property); N.M. Stat. Ann. §§ 30-

to keep and bear arms;[9] carrying of concealed arms;[10] safe storage of arms;[11] safe transport of

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7-2.4, 30-7-3 (university premises and licensed liquor establishments); S.D. Codified Laws § 22-14-23 (courthouses); Tex. Penal Code Ann. § 46.03 (various public places); Wash. Rev. Code § 9.41.300 (certain public places); Wis. Stat. § 941.237 (places where alcohol may be consumed); L.A. Mun. Code ch. V, art. 5 § 55.06 (use of bow and arrows prohibited except on established target ranges).

[9] *See*, *e.g.*, Colo. Rev. Stat. § 18-12-108 (restrictions on possession by felons); Fla. Stat. § 790.23 (same); Idaho Code Ann. §§ 18-3302, 18-3316 (restricting possession by felons, mentally ill, drug addicts, etc.); Ky. Rev. Stat. Ann. § 527.040 (banning possession by felons); Neb. Rev. Stat. § 28-1204 (banning possession of revolvers by minors); Neb. Rev. Stat. § 28-1206 (banning possession by felons); Nev. Rev. Stat. § 202.360 (same); N.J. Stat. Ann. § 2C:39-7 (banning possession by felons and persons with mental disorders); S.D. Codified Laws § 22-14-15 (restrictions on possession by felons); Tex. Penal Code Ann. § 46.04 (same).

[10] *See*, *e.g.*, Ala. Code § 13A-11-50; Ariz. Rev. Stat. Ann. § 13-3112; Cal. Penal Code § 12050; Colo. Rev. Stat. § 18-12-105; Fla. Stat. § 790.01; Georgia Code Ann. § 16-11-126; Ind. Code § 35-47-2-1; Me. Rev. Stat. Ann. tit. 25, § 2001-A; Md. Code Ann. § 4-203; Neb. Rev. Stat. § 28-1202; N.J. Stat. Ann. § 2C:39-5; S.D. Codified Laws § 22-14-9; Wash. Rev. Code § 9.41.050; Wis. Stat. § 941.23; Chicago Mun. Code § 8-20-010; Denver Mun. Code § 38-117; L.A. Mun. Code ch. V, art. 5 § 55.01; L.A. Mun. Code ch. V, art. 5 § 55.10; N.Y.C. Admin. Code § 10-131.

[11] *See*, *e.g.*, Conn. Gen. Stat § 52-571g (strict liability for improperly stored loaded firearms); Conn. Gen. Stat. § 53a-217 (criminal negligence liability for same); Del. Code Ann. tit. 11, § 1456 (same); Fla. Stat. § 790.174 (same); Haw. Rev. Stat. § 134-6 (firearms must be stored in container); Iowa Code § 724-22 (criminal liability for unauthorized access by minors); Md. Code Ann. § 4-104 (prohibiting storage of loaded firearms in areas accessible to minors); Minn. Stat. § 609.666 (criminal liability for minor's access to loaded and unsecured firearm); Nev. Rev. Stat. § 202.300 (same); N.H. Rev. Stat. Ann. § 650-C:1 (same); N.J. Stat. Ann. § 2C:58-15 (criminal liability for

arms;[12] and types of permissible ammunition and accessories.[13] Although the Second Amendment has never been incorporated against the states, *United States* v. *Cruikshank*, 92 U.S. 542 (1876), this variety of weapons laws shows the vast universe of regulations subject to significant federal court challenge—and significant federal court involvement—if the Court does not accord the traditional deference to reasonable regulation enacted in response to specific facts and circumstances.

Moreover, federal law already provides numerous restrictions of its own. These include prohibitions on possession or transport of firearms or ammunition by felons, fugitives, those under indictment, drug users, the mentally ill, illegal aliens, persons dishonorably discharged from the Armed Forces, persons subject

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minor's access to unsecured firearms); Tex. Penal Code Ann. § 46.13 (criminalizing unsecured storage of firearms in areas accessible to minors); Wis. Stat. § 948.55 (same).

[12] *See*, *e.g.*, Haw. Rev. Stat. § 134-6 (firearms must be transported unloaded and in container); 720 Ill. Comp. Stat. 5/24-1 (same); Md. Code Ann. § 4-203 (handguns must be unloaded when transported except under certain circumstances); Mass. Gen. Laws ch. 140, § 131C (same); Minn. Stat. § 624.714 (forbidding transport of firearms without license); Minn. Stat. § 97B.045 (hunting firearms must be transported in gun case or in trunk and unloaded); Va. Code Ann. § 15.2-915.2 (localities may enact laws prohibiting transport of loaded firearms).

[13] *See*, *e.g.*, Ala. Code § 13A-11-60 (banning brass or teflon-coated ammunition); Cal. Penal Code § 12520 (banning silencers); Fla. Stat. § 790.31 (banning armor-piercing or exploding ammunition); Ga. Code Ann. § 16-11-122 (banning silencers); Ind. Code § 35-47-5-11 (banning armor piercing ammunition); Md. Code Ann. § 4-305 (banning detachable magazines with capacity of 20 rounds or more); Tex Penal Code Ann. § 46.05 (banning armor-piercing ammunition); Chicago Mun. Code § 8-20-165 (banning laser sight accessories).

to restraining orders, domestic abusers, or minors. *See* 18 U.S.C. § 922. Federal law also imposes significant licensing, reporting and other restrictions on firearms dealers, importers, and manufacturers. *Id.* In addition, there are significantly enhanced federal penalties for the use of firearms in certain crimes. *Id.* §§ 924(a)–924(o). Firearms may not be sold, mailed, or shipped interstate to another person except by and between licensed dealers. *Id.* § 922(a)(2). While being transported by vehicle, firearms must be unloaded and in the trunk or a locked container. *Id.* § 926A. Federal law prohibits the carrying of firearms on aircraft or common carriers, even for self-defense purposes. *Id.* § 922. It is illegal to manufacture or sell armor-piercing handgun ammunition. *Id.* And federal law also places significant restrictions on the possession of machine guns, sawed-off shotguns, bombs, rockets, missiles, and mines, as well as nuclear materials and chemical weapons. *Id.* §§ 229, 831, 842, 922, 922(a)(4).

It should not be the business of federal courts to micromanage the myriad different ways that firearms and other weapons may be regulated pursuant to the police power. But the adoption of a strict or even intermediate scrutiny standard in this case would invite such micromanagement and open the floodgates of federal courts nationwide to numerous challenges to weapons control laws. Federal judges would be tasked with scrutinizing whether each law is narrowly tailored to advance a compelling interest by the least restrictive means available, *see*, *e.g.*, *Bernal* v. *Fainter*, 467 U.S. 216, 219 (1984), or whether the law involves important interests that are furthered by substantially related means, *Craig* v. *Boren*, 429 U.S. 190, 197 (1976). In contrast, a

reasonableness standard that is deferential to legislative bodies would leave accountability and discretion for weapons regulation where it belongs—in the hands of elected officials who are more familiar with the needs and views of their communities and are therefore better able to strike the necessary balance in response to those needs and views.

This includes the elected officials of the District, who have the principal responsibility for determining the needs and problems facing the District's own population. It is undisputed here that the District enacted its handgun ban and safe-storage laws pursuant to its police power to protect public safety. The District considered evidence indicating that murders, robberies, and assaults were more likely to be committed with a handgun. Pet. App. 102a. Based on this evidence, the District concluded that handguns were uniquely dangerous and that it was necessary to prohibit the possession and use of such guns, while still permitting access to other weaponry if licensed and stored safely. *Id.* at 104a. Similarly, it is undisputed that the District's safe-storage provisions were based on its evaluation and due consideration of the risks and benefits of such regulation. *See, e.g.*, Evening Council Sess. Tr. 21:1-15, 26:15-15, 28:12-21, 32:8-25 (Jun. 15, 1976). The District was presented with evidence regarding the efficacy and desirability of safe-storage laws as well as empirical evidence regarding the harms improperly stored firearms may cause. *Id.* at 21:5-8, 42:11-18.

Consequently, the District concluded that the laws it ultimately enacted were in the public interest and that alternative means would not suffice to protect public safety. Pet. Br. 4-5; Pet. App. 103a-04a. It

does not matter that the District could have made a different choice or that the results obtained may not have met the District's original hopes and expectations. It is equally irrelevant that the evidence relied upon by the District is not uniformly accepted by social scientists. *See Gonzales* v. *Carhart*, 127 S. Ct. 1610, 1636 (2007) (legislative determinations entitled to deference in the absence of expert consensus). What matters is that the District's elected officials, as shown below, enacted a reasonable regulatory scheme designed to protect public safety that still leaves substantial room for individuals to defend themselves in their homes.

## II. THE STATUTES AT ISSUE STRIKE A REASONABLE BALANCE BETWEEN THE EXERCISE OF THE POLICE POWER AND ANY LEGITIMATE PRIVATE RIGHT TO SELF-DEFENSE IN THE HOME.

### A. There Is No Unlimited Right To Keep And Bear Any Arms For Any Purpose.

Any determination as to whether a particular weapons regulation is reasonable must begin with an understanding of the nature of the private right protected. Because no constitutional right is absolute, any private right under the Second Amendment must be tethered to a right to keep and bear arms for a legitimate purpose. As noted above, there is obviously no private right to keep and bear arms for a criminal purpose. Nor can there be a right to keep or bear any type of arms, regardless of whether that arm could be considered a lineal descendent of weaponry available in 1791. For example, today's artillery is descended from the artillery used in the 18th century, but no one could seriously contend that the

Second Amendment guarantees the right to have a rocket launcher in one's backyard.

Thus, many states have concluded that there is generally no right to use a spring gun, even for the purposes of self-defense.[14] Similarly, there is of course no right to keep and bear weapons of mass destruction, or missiles and explosives.[15] Further, a number of jurisdictions forbid the use of several less-common kinds of weapons in self-defense, such as throwing stars,[16] brass knuckles,[17] nunchakus,[18] and even sling-shots.[19]

In fact, the common law has always imposed restrictions on the right of self-defense, including that it be exercised reasonably. *See*, *e.g.*, *Beard* v. *United States*, 158 U.S. 550, 564 (1895) (defendant's use of self-defense appropriate only when there exists "reasonable grounds to believe, [it] was necessary to save his own life or to protect himself from great bodily injury"); *Benjamin*, 662 A.2d at 1232 (noting that "[t]he common law principle permitting one to use deadly force in self-defense has long been restricted by the general rule of reason") (citation

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[14] *See*, *e.g.*, 720 Ill. Comp. Stat. 5/24-1; Iowa Code §§ 704.4, 708.9; Kan. Stat. Ann. § 21-4201; Mich. Comp. Laws § 750.236; Minn. Stat. § 609.665; Mo. Rev. Stat. § 571.030; Nev. Rev. Stat. § 202.255; Or. Rev. Stat. § 166.320; S.C. Code Ann. § 16-23-450; Wis. Stat. § 941.20.

[15] *See*, *e.g.*, 18 U.S.C. §§ 229, 831, 842, 922(a)(4); Ga. Code Ann. § 16-11-123; Tex. Penal Code Ann. § 46.05.

[16] Ind. Code § 35-47-5.

[17] Ala. Code § 13A-11-53; Tex. Penal Code Ann. § 46.05.

[18] Ariz. Rev. Stat. Ann. §§ 13-3101, 13-3102.

[19] Ala. Code § 13A-11-53.

omitted); *Eckman* v. *State*, 209 N.W. 715, 716 (Wis. 1926) ("the law limits the right of self-defense to necessity as it reasonably appears to defendant at the time"). If the Second Amendment protects a private right to keep and bear arms premised upon the right to self-defense, the Framers must be presumed to have understood the inherent problems with such a right and that the common law had always imposed reasonable limits upon it.

Thus, any private right to keep and bear arms must be limited to a legitimate purpose that does not threaten public safety. As the Second Amendment itself makes clear, this would include service in a well-regulated militia. And assuming that the right is not limited to just that purpose, other legitimate uses would include hunting, collecting, and the ability of individuals to defend themselves and their families in their homes. Only the latter interest—self-defense in the home—is implicated by this case, because there is no contention that the laws at issue infringe on any other legitimate use of arms.

Accordingly, assuming that the Second Amendment protects a private right unrelated to militia service, the question is whether the challenged laws unreasonably restrict the ability of District residents to defend themselves and their families in the home. As next shown, they do not.

### B. The District's Regulation Is Reasonable Because It Restricts Access To Only One Category Of Weapons While Still Permitting Use Of Other Firearms In Self-Defense If Safely Stored.

As authoritatively interpreted by the District itself, the laws at issue here effectively prohibit private

possession and use of only one kind of weaponry—handguns—while permitting ownership and legitimate use of other weapons, including shotguns and rifles, provided they are registered and safely stored. This regulatory scheme is reasonable in relation to any private right that may be protected by the Second Amendment, because it reasonably permits individuals to exercise the ability to defend themselves and their families in the home.

The court of appeals thought the District's laws unreasonable because they entirely prohibit one kind of arms. Pet. App. 53a. But that cannot be correct. As noted above, there are numerous legitimate laws that entirely prohibit particular kinds of weapons that, in the judgment of local elected officials, are subject to abuse or misuse.[20] Banning an entire class of arms that might otherwise have been available for self-defense falls within the broad police power of state and local governments. *See Arnold*, 616 N.E.2d at 173 ("police power includes the power to prohibit"). As a result, numerous courts considering state constitutional provisions protecting the right to keep and bear arms have upheld laws prohibiting entire classes of arms as reasonable regulations of that right.[21]

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[20] Under the court of appeals' *per se* rule, all of these kinds of prohibitions would contravene the Second Amendment, as would the District's own bans on sawed-off shotguns, machine guns, and short-barreled rifles—prohibitions that Respondent has chosen not to challenge.

[21] *See*, *e.g.*, *State* v. *Swanton*, 629 P.2d 98, 99 (Ariz. Ct. App. 1981) (nunchakus); *Benjamin*, 662 A.2d at 1235 (assault weapons); *Robertson*, 874 P.2d at 333 (same); *Kalodimos* v. *Village of Morton Grove*, 470 N.E.2d 266, 277-79 (Ill. 1984) (operable handguns); *Commonwealth* v. *Davis*, 343 N.E.2d 847,

In evaluating the reasonableness of such legislation, courts consider various factors, including the weapons that remain available to the citizenry for self-defense; whether the banned weapons are commonly used for criminal purposes; and whether such weapons have particularly dangerous characteristics. *See Benjamin*, 662 A.2d at 1234 (collecting cases in support of each factor). There is not and should not be any bright line rule that prohibitions of particular classes of weapons are *per se* infringements of the right to keep and bear arms. *See id.* at 1235 ("the purposes served by the constitutional right to bear arms are not integrally linked to the particular means by which they are achieved"); *Robertson*, 874 P.2d at 331 ("the trial court erred in holding that restricting the types of weapons that may be used in exercising the right to bear arms in self-defense constitutes a *per se* violation of that right").

For several reasons, the District's ban on handguns does not effectively disarm the District's citizenry or infringe upon the right to bear arms in self-defense. First, the District's reasoned determination that handguns are particularly likely to injure public safety is entitled to substantial deference. Handguns pose unique dangers to public health and safety, as they: (1) are the weapon of choice for criminals; (2) often escalate domestic violence to murder; (3) often result in the accidental death of children; (4) are easily concealable; and (5) facilitate suicides. Pet.

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849-50 (Mass. 1976) (short-barreled shotguns); *People* v. *Brown*, 235 N.W. 245, 247 (Mich. 1931) (blackjacks); *State* v. *LaChapelle*, 451 N.W.2d 689, 690-91 (Neb. 1990) (machine guns, short-barreled rifles, and short-barreled shotguns); *Morrison* v. *State*, 339 S.W.2d 529, 531-32 (Tex. Crim. App. 1960) (machine guns).

Br. 53; Pet. App. 101a-02a. All these factors support the reasonableness of the District's decision to prohibit this one kind of weaponry. *See Benjamin*, 662 A.2d at 1234. Legislatures, not courts, are tasked with determining the needs and conditions of their own communities, including whether the dangers of certain weapons outweigh their legitimate benefits. And there is ample evidence to support the conclusion that the D.C. Council reached in the case of handguns. *See, e.g.*, Craig Perkins, U.S. Dep't of Justice, Bureau of Justice Statistics, *National Crime Victimization Survey, 1993-2001: Weapon Use and Violent Crime* 2 (Sept. 2003) (noting that 87% of all guns used in crime are handguns); Colin Loftin *et al.*, *Effects of Restrictive Licensing in Handguns on Homicide and Suicide in the District of Columbia*, 325 New Eng. J. Med. 1615 (1991) (observing that decline in firearm related homicides and suicides coincided with passage of D.C. handgun ban).

Second, the District's laws reasonably allow for the exercise of the lawful right to self-defense in the home, which is the only legitimate interest conceivably implicated by this case. As other courts reviewing the constitutionality of statutory bans on classes of arms have determined, such a law should be found reasonable if it "continues to permit access to a wide array of weapons." *Benjamin*, 662 A.2d at 1235; *see also Robertson*, 874 P.2d at 333 (finding that a ban on assault weapons does not unreasonably infringe upon the right to bear arms as "there are literally hundreds of alternative ways in which citizens may exercise the right to bear arms in self-defense"). The court of appeals erred in failing to fully consider the District's argument that a statutory ban on handguns permits residents countless ways to exercise

their Second Amendment rights, including with other kinds of firearms. Pet. App. 53a. (finding that argument "frivolous").

As the District has noted, handguns constitute only about one-third of the Nation's firearms. *See* Marianne Zawitz, U.S. Dep't of Justice, Bureau of Justice Statistics, *Firearms, Crime, and Justice: Guns Used in Crime* 2 (July 1995). Thus, despite the ban on this small subset of firearms, the District's citizens continue to have access (subject to federal restrictions) to the remaining two-thirds of other firearms for self-defense purposes, provided they are registered and safely stored with trigger locks or similar devices. This includes rifles and shotguns.

Although Respondent, as the plaintiff, bore the burden of proof, he produced no record evidence that any right to self-defense in the home could not be reasonably exercised through the weaponry permitted by the District. Nor could such a contention be sustained, given that rifles and shotguns are routinely used for purposes of self-defense in the home. In fact, "[f]or home defense, a shotgun is superior to a handgun in terms of being able to stop a violent intruder as quickly as possible" and a shotgun "can usually be purchased for less than the cost of a handgun of comparable quality." Firearms Tactical Institute, *Tactical Brief # 10: Shotgun Home Defense Ammunition* (October 1998) (http: http://www.firearmstactical.com/briefs10.htm).

Nor is there any basis to hold that the District's safe-storage requirement, D.C. Code § 7-2507.02, unreasonably burdens any private right to bear arms for self-defense in the home. In enacting that provision, the District determined that locked guns can be

ready for use in under a minute. Evening Council Sess. Tr. 42:11-18, 49:8-16 (Jun. 15, 1976). Indeed, the District's safe-storage law is hardly uncommon. As already noted, numerous other states require, through legislation or the common law, that firearms be safely stored and impose criminal and/or civil liability for the failure to do so. *See supra* note 11. The public safety rationale for these laws is obvious and compelling: preventing unauthorized access to dangerous weapons by children and others not entitled to use them.

Contrary to Respondent's assertion and the court of appeals' conclusion, the existence of a trigger lock or similar device, as required by District law for long guns kept in the home, does not guarantee only the right to keep and bear "a useless hunk of metal and springs." *See* Opp. Cert. 19; Pet. App. 55a. Respondent apparently contends, contrary to the District's interpretation of its own law, that the law does not permit removal of the trigger lock even when necessary for self-defense. Such an unreasonable reading of this statute is contrary to long-standing principles of District law, *see Wilson* v. *United States*, 198 F.2d 299, 300 (D.C. Cir. 1952) (recognizing exigent circumstances exception to general law), and violates the principle that statutes are to be read to avoid constitutional issues. *Edward J. DeBartolo Corp.* v. *Fla. Gulf Coast Bldg. & Constr. Trades Council*, 485 U.S. 568, 575 (1988) ("where an otherwise acceptable construction of a statute would raise serious constitutional problems" courts should construe the statute in a manner to "avoid such problems unless such construction is plainly contrary to [legislative] intent"). Indeed, since Respondent has never attempted to register a long gun, and since there is no

actual or even speculative threat that he would ever be prosecuted for using such a gun in self-defense if it has been stored with a trigger lock, Respondent lacks standing to challenge the District's authoritative interpretation of its own laws.

Respondent has conceded that the District could, consistent with the Second Amendment, require safe-storage of firearms in a child-proof safe. *See* Opp. Cert. at 21. Having made that concession, Respondent is now quibbling only with the means of safe-storage selected by the District. That quibble is not a basis for the Court to conclude that any private right to keep and bear arms is unconstitutionally infringed. In the end, Respondent has failed in his own burden to show that he has no effective means of self-defense in the home. The existence of an alternative means of exercising the right demonstrates that there is no unconstitutional infringement. *Renton* v. *Playtime Theatres, Inc.*, 475 U.S. 51, 53-54 (1986). Citizens in the District have effective, alternative means of self-defense and the District is bound by its assertions that it will not prosecute its citizens for assembling, loading, or unlocking their firearms in the proper exercise of their right to self-defense. Pet. 7 n.2; Pet. App. 55a.

Finally, there has been no showing that the District's registration and licensing requirements are unreasonable burdens upon any private right to keep and bear arms. The District merely requires its residents to obtain a registration permit to possess or control firearms, D.C. Code § 7-2502.0, and a license in order to carry concealed or concealable weapon, D.C. Code § 22-4504(a). Such requirements are

commonplace[22] and commonsense limitations that ensure public safety by preventing unsuitable persons such as minors, felons, or the mentally ill from possessing dangerous weapons. In fact, many states specifically require their citizens to obtain licenses to carry handguns or concealed weapons—including those states that expressly recognize a private right to keep and bear arms.[23] Such laws have been routinely upheld by courts as reasonable regulations of that right,[24] and there is no basis upon which this Court should conclude otherwise with respect to the District's registration and licensing laws.

The record before this Court is clear that the District has enacted statutes that reasonably regulate the private right to keep and bear arms based on reasoned legislative choices. While the District's laws restrict the private right to keep and bear one kind of weapon, they preserve the ability of individuals to engage in legitimate self-defense in the home using other kinds of weapons provided they are

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[22] *See, e.g.*, Cal Penal Code § 12801; Haw. Rev. Stat. §§ 134-2, 134-3; 720 Ill. Comp. Stat. 5/24-3; Md. Code Ann., Pub. Safety §§ 5-123, 5-133; Mass. Gen. Laws ch. 140, §§ 123, 131; Mich. Comp. Laws § 28.422; Minn. Stat. §§ 624.713-14, 624.714; Neb. Rev. Stat. §§ 69-2403, 69-2404; N.Y. Penal Law § 400.00.

[23] *See, e.g.*, Ala. Code § 13A-11-73; Cal. Penal Code § 12025; Fla. Stat. § 790.06; Ga. Code Ann. § 16-11-126; Haw. Rev. Stat. § 134-9; Md. Code Ann., Pub. Safety § 5-303; Mass. Gen. Laws ch. 140, § 131; Mich. Comp. Laws § 28.422; Minn. Stat. § 624.714; Neb. Rev. Stat. § 28-1202; N.Y. Penal Law § 400.00; Ohio Rev. Code Ann. § 2923.12; Tex. Penal Code Ann. § 46.15; Va. Code Ann. § 18.2-308; Wis. Stat. § 941.23; Wyo. Stat. Ann. § 6-8-104 .

[24] *See, e.g.*, *Klein* v. *Leis*, 795 N.E.2d 633, 636-38 (Ohio 2003); *Cole*, 665 N.W.2d at 341; *McAdams*, 714 P.2d at 1238.

lawfully owned and safely stored. Such laws should not be second-guessed by this Court. Rather, the Court should defer to the reasonable, delicate judgment of local elected officials in enacting these laws.

## CONCLUSION

For the foregoing reasons, and those set forth in the briefs of petitioners, the judgment of the court of appeals should be reversed.

Respectfully submitted,

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