

1 **IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY, MARYLAND**

2 **MARYLAND SHALL ISSUE, INC., et al.**

3 9613 Harford Rd., Ste C #1015

4 Baltimore, MD 21234

5 *Plaintiffs*

v.

Case No. C-02-CV-22-000217

6 **ANNE ARUNDEL COUNTY,**

7 **MARYLAND**

44 Calvert Street

8 Annapolis, MD 21401

9 *Defendant.*

EXPEDITED HEARING REQUESTED

10 **PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT AND
ALTERNATIVE MOTION FOR A PRELIMINARY INJUNCTION**

11 Pursuant to MD Rule 2-311 and MD Rule 2-501, plaintiffs respectfully move this Court
12 for an order granting summary judgment on all Counts of the Amended Complaint and declaratory
13 and injunctive relief on each Count. There is no genuine dispute as to any material fact and
14 plaintiffs are entitled to judgment as a matter of law. This motion is supported by the declarations
15 of each of the plaintiffs attached herewith. For the convenience of the Court, attached is the final
16 version of Anne Arundel County Bill 109-21, challenged by the Amended Complaint. Summary
17 judgment is appropriate because Bill 109-21: (1) is not a local law within the meaning of Article
18 XI-A, § 3 of the Maryland Constitution and is thus *ultra vires*, as alleged in Count I of the
19 Complaint; (2) violates the Express Powers Act, MD Code, Local Government, §10-206, in that
20 it is inconsistent with and/or preempted by Maryland general law, as alleged in Count II; (3) is
21 impliedly preempted by a comprehensive system of regulation for dealers enacted by the General
22 Assembly, as implemented by regulations promulgated by the Maryland State Police, as alleged
23 in Count III; and (4) is so vague that it violates Article 24 of the Maryland Declaration of Rights,
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1 as alleged in Count IV. There are no disputed issues of fact concerning these Counts and plaintiffs
2 are entitled to the requested relief as a matter of law.

3 Alternatively, plaintiffs move this Court for an order preliminarily enjoining the defendant,
4 Anne Arundel County, from enforcing Bill 109-21. For the reasons set forth in the accompanying
5 memorandum, and in the accompanying motion for an expedited hearing, plaintiffs have a strong
6 likelihood of success on the merits on at least one of their claims. Such an injunction is necessary
7 to maintain the *status quo* until the issues in contention are fully litigated. The balance of
8 convenience strongly favors plaintiffs who would suffer far greater irreparable injury by a refusal
9 to issue an injunction than would be done to the defendant by granting the injunction. Without
10 such a preliminary injunction, the plaintiffs will suffer irreparable injury, including the possible
11 loss of their businesses or, at a minimum, tens of thousands of dollars of compliance expenditures
12 required by Bill 109-21, without any prospect of recovering those costs through a damages award.
13 The public interest favors such preliminary relief. See *Dep't of Transp., Motor Vehicle Admin. v.*
14 *Armacost*, 299 Md. 392, 404–05, 474 A.2d 191 (1984); *Eastside Vend Distributors, Inc. v. Pepsi*
15 *Bottling Grp., Inc.*, 396 Md. 219, 224, 913 A.2d 50 (2006).

16 Pursuant to MD Code, Courts and Judicial Proceedings, § 3-409(e), plaintiffs also
17 respectfully request “a speedy hearing” on this motion and that the Court “advance it on the
18 calendar” to be heard and decided as soon as possible. Such a decision is needed well prior to
19 August 23, 2022, the date that County Bill 109-21 becomes effective as against existing firearms
20 dealers in Anne Arundel County. See Bill 109-21, Section 3.
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1 **CONCLUSION**

2 For the foregoing reasons and for the reasons set forth in the accompanying supporting
3 memorandum of law, the motion for summary judgment or alternative motion for a preliminary
4 injunction should be granted. Plaintiffs respectfully request an expedited hearing and a decision
5 on this motion and alternative motion prior to August 23, 2022, the effective date of Bill 109-21
6 as to the plaintiff dealers.
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8 Respectfully submitted,

9 */s/ Mark W. Pennak*

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27 Dated: April 4, 2022

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on April 4, 2022, a copy of the following filings:

1. Plaintiffs' Motion For Summary Judgment And Alternative Motion For A Preliminary Injunction;
2. Opposition Of Plaintiffs To Defendant's Motion To Dismiss And For Summary Judgment And Memorandum In Support Of Plaintiff's Motion For Summary Judgment And Alternative Motion For A Preliminary Injunction; and
3. Plaintiffs' Motion For Expedited Hearing And Decision,

were served on the following counsel for defendant Anne Arundel County via the MDEC e-filing system:

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Respectfully submitted,

/s/ Mark W. Pennak

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