

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

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

9613 Harford Rd., Ste C #1015

Baltimore, MD 21234

*Plaintiffs*

v.

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

**ANNE ARUNDEL COUNTY,**

**MARYLAND**

44 Calvert Street

Annapolis, MD 21401

*Defendant.*

**EXPEDITED HEARING REQUESTED**

**PLAINTIFFS' SUPPLEMENTAL MEMORANDUM CONCERNING HB 1021  
AND  
SUBMISSION OF REVISED DECLARATION OF DONNA WORTHY**

**I. THE ENACTMENT OF HOUSE BILL 1021 INTO LAW**

Plaintiffs respectfully submit this supplemental memorandum for the purpose of calling to the Court's attention the enactment of HB 1021 by the Maryland General Assembly. See Maryland 2022 Session Laws, ch. 55. <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb1021>. A copy of HB 1021, as enacted, is attached. HB 1021 is discussed extensively in Plaintiffs' Memorandum In Support of Plaintiffs' Motion for Summary Judgment and Alternative Motion for a Preliminary Injunction, filed April 4, 2022, at 14-17. At the time of that filing, HB 1021 had not yet become law. While the Governor vetoed HB 1021, that veto was overridden by the General Assembly on April 9, 2022. HB 1021, ch. 55, becomes effective October 1, 2022. See Section 2.

As enacted, HB 1021 provides that the Maryland State Police "shall adopt rules and regulations to determine whether a licensed dealer has met the requirements" imposed by HB 1021. MD Code, Public Safety, § 5-145.1(c), as amended by HB 1021. Such

regulations are expected to be issued on an emergency basis prior to October 1, 2022. Enforcement of HB 1021 is likewise assigned exclusively to the Maryland State Police. Violations of these security requirements or regulations may result in a \$1,000 civil fine, as imposed by the State Police. A second violation is punishable with suspension of the dealer's license, by the State Police. A third or subsequent violation is punishable by a revocation of the dealer's license, by the State Police. See amendments to MD Code, Public Safety, § 5-114(a)(1)(iii), (b)(2)(ix), and to MD Code, Public Safety, § 5-145.1(b)(2),(3), as enacted by HB 1021.

By its terms, HB 1021 is applicable only to State-licensed dealers, and thus has no application to federally licensed firearms dealers who are not also licensed by the State. See P.Mem. at 32 (discussing the legal differences between a State-licensed dealer and a federally-licensed dealer). In contrast, Bill 109-21 defines "dealer" to mean "a person in the business of selling, renting, or transferring firearms at wholesale or retail" and thus covers federally licensed dealers as well as State licensed dealers. See County Code, § 12-6-101(1), as amended by Bill 109-21. Bill 109-21 thus effectively negates the General Assembly's decision in HB 1021 not to impose security requirements on dealers who are only federally licensed. That decision of the General Assembly in enacting HB 1021 is consistent with existing State law, which leaves solely to federal law any regulation of such dealers. See P.Mem. at 31-32.

The enactment of HB 1021 supports plaintiffs' argument that Bill 109-21 is not "a local law" within the meaning of the Maryland Constitution. See P.Mem. at 12-18. In addition, HB 1021 establishes new, State-wide standards for security measures at the business establishments of State-licensed firearms dealers, such as the plaintiff dealers.

Those standards set out in HB 1021 are in conflict with the dealer security measures required by Bill 109-21. (Id.). Thus, the enactment of HB 1021 further supports plaintiffs' argument that Bill 109-21 violates the Express Powers Act, MD Code, Local Government, § 10-206. See P.Mem. at 17, 18-27. The enactment of HB1021, with its heavy reliance on regulation and enforcement by the State Police, also supports plaintiffs' argument that Bill 109-21 is impliedly preempted because of the State's comprehensive system of regulation of State-licensed firearms dealers in Maryland. See P.Mem. at 27-34.

## **II. REVISED DECLARATION OF DONNA WORTHY**

Plaintiffs' April 4, 2022, Motion for Summary Judgment and Alternative Motion for a Preliminary Injunction were supported by the sworn declarations of the plaintiffs dealers, including the Declaration of Donna Worthy, the owner and operator of plaintiff WORTH-A-SHOT. Since the filing of that motion, the business location of plaintiff WORTH-A-SHOT was broken into by would-be thieves using a vehicle to jump the curb and smash through a side window of the business. While the perpetrators were frustrated in their attempt to steal firearms by the existing, internal security measures in place at WORTH-A-SHOT, and were later apprehended by the police, this event requires revisions to the Declaration of Donna Worthy to bring it up-to-date. A revised Declaration of Ms. Worthy is attached to this Supplemental Memorandum for that purpose and is intended to serve as a complete substitute for her declaration submitted with the April 4, 2022, Motion for Summary Judgment and Alternative Motion for a Preliminary Injunction.

## **CONCLUSION**

For the reasons set forth above, and in plaintiffs' April 4, 2022, Supporting Memorandum, Plaintiffs' Motion for Summary Judgment and Alternative Motion for a

Preliminary Injunction should be granted. For the same reasons, the County's motion to dismiss and alternative motion for summary judgment should be denied.

Respectfully submitted,

*/s/ Mark W. Pennak*

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Dated: April 28, 2022