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

DWIGHT D. MITCHELL,

Plaintiff,

v.

Civil Action No.

**JENNIFER DAVENPORT, in her
official capacity as Attorney General of the
State of New Jersey; and**

**COL. JEANNE HENGEMUHLE, in
her official capacity as Superintendent of
the New Jersey State Police,**

Defendants.

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF (42
U.S.C. § 1983)**

Dwight D. Mitchell
Plaintiff Pro Se
20 Summershade Circle
Piscataway, NJ 08854
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Local Civil Rule 10.1 Statement

The mailing addresses of the parties to this action are:

Dwight D. Mitchell
20 Summershade Circle
Piscataway, NJ 08854

Jennifer Davenport
Office of the Attorney General of New Jersey
25 Market Street
Trenton, New Jersey 08611

Col. Jeanne Hengemuhle
Superintendent New Jersey State Police
1040 River Road
West Trenton, New Jersey 08628

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1 Plaintiff Dwight D. Mitchell (“Plaintiff”), appearing pro se, brings this
2 action against Defendants Jennifer Davenport and Col. Jeanne Hengemuhle, and
3 alleges as follows:
4

5 **I. INTRODUCTION**
6

7 1. This is an action under 42 U.S.C. § 1983 for declaratory and
8 injunctive relief. Plaintiff challenges the constitutionality of N.J.S.A. § 2C:58-
9 4.4(b)(1), (b)(2), and (c) (collectively, the “Mandates”) —which impose criminal
10 liability based on undefined and standardless statutory terms—as applied to a New
11 Jersey permit-to-carry holder who is stopped or detained while engaged in lawful
12 public carriage with a handgun stored in a motor vehicle. The challenged statute
13 operates as a unified enforcement scheme that imposes compelled speech,
14 compelled production, and compelled seizure during routine encounters, each
15 independently and collectively burdening constitutional rights.
16
17

18 2. This case presents a narrow but consequential constitutional question:
19 whether the State may impose criminal penalties on a law-abiding citizen for
20 failing to immediately disclose the presence of a firearm during a routine traffic
21 stop, even where the firearm is unloaded, secured, and not accessible. Plaintiff
22 does not challenge public carry generally, but the application of the statute to
23 ordinary vehicle travel where no immediate threat exists. As applied in this
24 context, the statute requires disclosure untethered to accessibility or dangerousness
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1 and alters the dynamics of routine encounters. The statute thereby forces Plaintiff
2 to choose between engaging in lawful conduct and risking criminal liability,
3 resulting in a present and continuing injury.
4

5 3. In Plaintiff’s intended public carriage covered by N.J.S.A. § 2C:58-
6 4.4(b)(1), the handgun remains unloaded, locked in a container, vehicle safe, or
7 trunk, and not readily accessible. Plaintiff’s transport tracks the Firearm Owners
8 Protection Act (“FOPA”), 18 U.S.C. § 926A.
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11 4. Subsection (b)(1) criminalizes silence. It compels a permit holder—“if
12 stopped or detained by law enforcement while carrying a handgun in public or
13 traveling with a handgun in a motor vehicle”—to “immediately disclose” that
14 status. A violation is a crime of the fourth degree. N.J.S.A. § 2C:58-4.4(b)(1). This
15 Complaint refers to subsection (b)(1) as the “Disclosure Mandate.”
16
17

18 5. Subsection (b)(2) criminalizes nonproduction of papers. It compels a
19 permit holder to “display” his permit. A first violation is a disorderly persons
20 offense. A second or subsequent offense escalates to a crime of the fourth degree.
21 N.J.S.A. § 2C:58-4.4(b)(2). This Complaint refers to subsection (b)(2) as the
22 “Display Mandate.”
23
24

25 6. Subsection (c) compels firearm surrender for inspection. It commands
26 that a permit holder—if “detained ... as part of a criminal investigation”—must
27 “provide the handgun ... upon request” for inspection. A violation is a crime of the
28

1 fourth degree. N.J.S.A. § 2C:58-4.4(c). This Complaint refers to subsection (c) as
2 the “Turnover Mandate.”
3

4 7. Plaintiff does not seek to rewrite New Jersey’s firearms code. Plaintiff
5 seeks a narrow injunction against the Mandates as applied to the lawful, peaceable
6 conduct pleaded here. Plaintiff seeks an order preventing enforcement that forces
7 him to abandon constitutional rights or accept criminal exposure.
8

9 8. Plaintiff does not dispute that officers may take constitutionally
10 justified safety measures in the presence of individualized facts. Plaintiff
11 challenges the State’s decision to impose categorical, felony-grade duties—
12 compelled speech, compelled display, and compelled surrender—during routine
13 stops even when the handgun is unloaded, locked, and inaccessible.
14
15

16 9. This case is presented in a deliberately narrow factual posture. At
17 minimum, Plaintiff challenges the application of the statute to the transport of an
18 unloaded, secured, and inaccessible handgun in a motor vehicle during ordinary
19 travel. This framing permits resolution of the constitutional questions presented
20 without reaching broader applications, while Plaintiff expressly preserves all facial
21 and additional as-applied challenges for full merits adjudication.
22
23

24 10. As applied to Plaintiff’s pleaded conduct—transporting a lawfully
25 owned handgun unloaded, secured, locked, and inaccessible—the Disclosure
26 Mandate (a) burdens Second Amendment conduct, (b) compels speech in violation
27
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1 of the First Amendment, (c) creates an irrational classification under the Equal
2 Protection Clause, and (d) conflicts with federal objectives in FOPA. See *N.Y.*
3 *State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 30, 32–33 (2022); *United*
4 *States v. Rahimi*, 602 U.S. 680, 684–87 (2024) (reaffirming Bruen’s
5 text-and-history method and rejecting a “historical twin” demand); *Wooley v.*
6 *Maynard*, 430 U.S. 705, 714 (1977); *W. Va. State Bd. of Educ. v. Barnette*, 319
7 U.S. 624, 642 (1943); *303 Creative LLC v. Elenis*, 600 U.S. 570, 598–603 (2023);
8 *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp.*, 515 U.S. 557, 573 (1995);
9 *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000); *Revell v. Port Auth. of*
10 *N.Y. & N.J.*, 598 F.3d 128, 136–37 (3d Cir. 2010).

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15 11. Plaintiff wishes to refrain from compelled disclosure and to engage in
16 lawful transport of an unloaded, secured, and inaccessible handgun without being
17 forced to choose between silence and criminal liability during routine encounters
18 with law enforcement. Plaintiff seeks prospective relief. The First Amendment
19 prohibits compelled speech. See *Riley v. Nat’l Fed’n of the Blind*, 487 U.S. 781,
20 795–97 (1988); *Wooley v. Maynard*, 430 U.S. 705, 714 (1977); *W. Va. State Bd. of*
21 *Educ. v. Barnette*, 319 U.S. 624, 642 (1943); *Ashcroft v. Free Speech Coalition*,
22 535 U.S. 234, 244–45 (2002). Plaintiff seeks prospective relief against Defendants
23 under *Ex parte Young*, 209 U.S. 123, 155–56 (1908).
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1 **II. PARTIES**

2 12. Plaintiff Dwight D. Mitchell ("Plaintiff") is an individual residing at 20
3 Summershade Circle, Piscataway, New Jersey 08854.

4 13. Upon information and belief, Defendant Jennifer Davenport is the
5 Attorney General of New Jersey, with an office address at 25 Market Street,
6 Trenton, New Jersey 08611. She is sued in her official capacity. If the incumbent
7 Attorney General changes during this action, the successor is automatically
8 substituted under Fed. R. Civ. P. 25(d).
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12 14. Upon information and belief, Defendant Col. Jeanne Hengemuhle is
13 the Superintendent of the New Jersey State Police, with an office address at 1040
14 River Road, West Trenton, New Jersey 08628. She is sued in her official capacity.
15 If the incumbent Superintendent changes during this action, the successor is
16 automatically substituted under Fed. R. Civ. P. 25(d).
17
18

19 15. Davenport and Hengemuhle, together with their officers, agents,
20 employees, and all persons acting in concert or participation with them, are
21 hereinafter referred to collectively as "Defendants."
22

23 **III. JURISDICTION AND VENUE**

24 16. This Court has subject-matter jurisdiction over this action pursuant to
25 28 U.S.C. §§ 1331 and 1343(a)(3) because Plaintiff's claims arise under the
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1 Constitution and laws of the United States. Declaratory and injunctive relief are
2 authorized by 28 U.S.C. §§ 2201–2202.
3

4 17. This action also arises under 42 U.S.C. § 1983, which supplies a cause
5 of action against state officials who, acting under color of law, deprive individuals
6 of rights secured by the Constitution.
7

8 18. Venue is proper in this District under 28 U.S.C. § 1391(b) because
9 Defendants are state officers with enforcement authority in this District, Plaintiff
10 resides in this District, and the threatened enforcement and injury pleaded here
11 occur in this District.
12

13 19. This action seeks prospective declaratory and injunctive relief against
14 state officials responsible for enforcing the challenged statute, a form of relief long
15 recognized as proper under *Ex parte Young* and routinely adjudicated in federal
16 courts before any criminal enforcement occurs.
17

18 20. Plaintiff brings each claim both facially and as applied. Plaintiff
19 challenges the statute as unconstitutional in all its applications and, independently,
20 as unconstitutional at minimum as applied to the conduct pleaded herein. Plaintiff
21 seeks preliminary relief on narrower as-applied grounds but expressly preserves all
22 facial challenges and all additional as-applied theories for full merits adjudication.
23
24 See *United States v. Salerno*, 481 U.S. 739, 745 (1987); *City of Los Angeles v.*
25 *Patel*, 576 U.S. 409, 418–19 (2015).
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IV. STANDING

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3 21. Plaintiff has suffered injury in fact that is concrete, particularized, and ongoing.
4 The Mandates impose felony-grade penalties during stops and detentions. Plaintiff
5 responds by forgoing protected conduct. Since November 2025, Plaintiff has not
6 transported any firearm outside his home. Plaintiff’s abstention is directly and
7 solely caused by the credible threat of criminal prosecution under N.J.S.A. §
8 2C:58-4.4(b)(1). Self-censorship and compelled abstention under a criminal statute
9 supply Article III injury. *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158–61
10 (2014); *Babbitt v. United Farm Workers Nat’l Union*, 442 U.S. 289, 298 (1979).
11 Plaintiff’s cessation of conduct is not voluntary but compelled by the credible
12 threat of enforcement, and such compliance in the face of a criminal statute does
13 not constitute a self-inflicted injury. See *MedImmune*, 549 U.S. at 129.

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18 22. Plaintiff has standing to bring his Second Amendment claims because
19 the challenged statute burdens conduct protected by the Constitution’s plain text
20 and has already caused Plaintiff to forgo that conduct. The credible threat of
21 enforcement has forced Plaintiff to cease lawful public carriage and secured
22 vehicle transport of a handgun. The ongoing chilling of Second Amendment rights
23 constitutes a concrete and continuing injury sufficient for Article III standing. See
24 *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 24–26 (2022); *Ezell v.*
25 *City of Chicago*, 651 F.3d 684, 699 (7th Cir. 2011); *Reilly v. City of Harrisburg*,

1 858 F.3d 173, 176–79 (3d Cir. 2017). A plaintiff need not await prior enforcement
2 where the statute directly applies to intended conduct and the State has not
3 disavowed enforcement. See *Susan B. Anthony List*, 573 U.S. at 158–61.

4
5 23. Plaintiff’s injury is traceable to Defendants and redressable by the
6 relief sought. The Attorney General possesses statutory authority to “maintain a
7 general supervision over criminal justice” and ensure the uniform enforcement of
8 the laws throughout the State. N.J.S.A. § 52:17B-103. The Attorney General also
9 exercises supervisory authority over county prosecutors and may supersede them
10 in any investigation or prosecution. N.J.S.A. § 52:17B-98. The Superintendent of
11 the New Jersey State Police operates under the authority of the Attorney General
12 and is responsible for statewide law-enforcement operations, including traffic stops
13 and enforcement of firearms laws. The State has affirmatively implemented the
14 challenged mandates through statewide law-enforcement guidance. In a September
15 15, 2023 memorandum, the Attorney General directed law-enforcement agencies
16 regarding enforcement of the disclosure and permit-display requirements during
17 stops and detentions. That guidance, directed to all law-enforcement agencies and
18 certified firearms instructors, references then-pending federal litigation, including
19 *Koons/Siegel v. Platkin*, while continuing to instruct enforcement of the challenged
20 mandates during routine encounters. These provisions and actions establish a direct
21 enforcement connection and confirm that enforcement of the statute is deliberate,
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1 statewide, and ongoing, reflecting how the statute is applied in practice during
2 routine encounters and eliminating any uncertainty regarding its enforcement. See
3 *Ex parte Young*, 209 U.S. 123, 155–56 (1908); *Verizon Md. Inc. v. Pub. Serv.*
4 *Comm’n*, 535 U.S. 635, 642 (2002).

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6
7 24. Plaintiff’s injury is concrete and imminent because traffic stops are a
8 routine and unavoidable feature of ordinary vehicle travel. As a licensed driver
9 who regularly uses public roadways, Plaintiff will inevitably be subject to traffic
10 stops and other police-initiated encounters. Because the challenged statute applies
11 automatically during such encounters, enforcement is not speculative but inevitable
12 absent judicial relief. See *Babbitt v. United Farm Workers Nat’l Union*, 442 U.S.
13 289, 298 (1979); *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158–61 (2014).

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15
16 25. Plaintiff’s injury does not depend on a speculative chain of future
17 events. The challenged statute applies automatically during routine stops and
18 detentions, and Plaintiff’s intended conduct falls squarely within its scope. Where a
19 statute directly regulates intended conduct and imposes criminal penalties for
20 noncompliance, the injury is not contingent or hypothetical but immediate and
21 concrete. See *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158–61 (2014);
22 *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 128–29 (2007)

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26 26. Plaintiff’s injury is not limited to § 2C:58-4.4(b)(1). Plaintiff is also
27 chilled by § 2C:58-4.4(b)(2), which criminalizes the inability to display a physical
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1 permit during a roadside encounter—even where Plaintiff remains continuously
2 and validly licensed—and escalates repeat nonproduction to a fourth-degree crime.
3 Plaintiff is further chilled by § 2C:58-4.4(c), which authorizes compelled firearm
4 turnover and “inspection” whenever an officer characterizes a detention as part of a
5 “criminal investigation,” creating a credible risk that routine traffic enforcement
6 will be relabeled to trigger mandatory seizure and forced handling of a secured
7 firearm. These provisions independently deter Plaintiff’s intended lawful conduct
8 and expose him to arrest, prosecution, and collateral consequences. See *Susan B.*
9 *Anthony List*, 573 U.S. at 158–61; *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S.
10 118, 128–29 (2007).

15 27. Plaintiff’s injuries are redressable by the relief sought. An order
16 enjoining enforcement of the challenged provisions would remove the credible
17 threat of prosecution, eliminate the compelled disclosure and seizure requirements,
18 and permit Plaintiff to resume lawful public carriage and vehicle transport of a
19 handgun in the manner described herein. See *MedImmune*, 549 U.S. at 128–29;
20 *Virginia v. Am. Booksellers Ass’n*, 484 U.S. 383, 393 (1988). Injunctive relief
21 against Defendants in their official capacities would redress Plaintiff’s injuries by
22 preventing enforcement by those acting under their authority, including state and
23 local law-enforcement officers subject to the Attorney General’s supervisory
24 control. See *Ex parte Young*, 209 U.S. 123, 155–56 (1908).

1 28. Plaintiff has standing to assert his First Amendment compelled-speech
2 claim. The Disclosure Mandate forces Plaintiff to speak under threat of
3
4 fourth-degree criminal punishment during routine stops and detentions. The
5 compelled disclosure alters Plaintiff's lawful conduct and forces a choice between
6
7 compelled speech and criminal punishment. The loss of First Amendment
8 freedoms, even for minimal periods of time, constitutes irreparable injury. *Roman*
9 *Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020); *Elrod v. Burns*, 427
10 U.S. 347, 373 (1976).

12 29. Plaintiff has standing to seek preemption-based declaratory and
13
14 injunctive relief because he engages in interstate travel covered by 18 U.S.C. §
15 926A and is presently deterred by the Disclosure Mandate's compelled-disclosure
16 requirement and criminal penalty during stops. Plaintiff engages in interstate public
17 carriage qualifying for federal safe-passage protection under 18 U.S.C. § 926A,
18 including travel between jurisdictions where he may lawfully possess and carry
19 firearms, with the firearm unloaded and not readily accessible. As applied to §
20 926A-qualifying travel, the Disclosure Mandate imposes additional state-law
21 conditions and criminal penalties that interfere with Congress's purpose of
22 protecting safe passage from burdensome and inconsistent state restriction.
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V. RIPENESS

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3 30. Plaintiff’s claims present a justiciable controversy fit for judicial decision. Plaintiff
4 challenges a final, operative statute that presently governs his conduct and imposes
5 criminal liability for noncompliance during stops or detentions. The Disclosure
6 Mandate compels “immediate” disclosure under threat of fourth-degree liability.
7 The statute supplies no objective definition of “immediately” and no safe harbor
8 clarifying compliant timing. That design invites discretionary enforcement.
9
10 Pre-enforcement challenges are ripe when intended conduct is arguably proscribed
11 and the law chills constitutional rights. *Artway v. Att’y Gen.*, 81 F.3d 1235, 1247
12 (3d Cir. 1996).
13
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15 31. Withholding review imposes substantial hardship. The credible threat
16 of enforcement has already forced Plaintiff to stop transporting firearms incidental
17 to lawful public carriage and to cease professional instruction requiring such
18 transport. Plaintiff’s complete cessation is ongoing. The Disclosure Mandate’s
19 felony-grade penalty drives that cessation.
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22 32. Plaintiff need not await arrest or prosecution. The threat is credible.
23 The intended conduct is covered. Defendants have not disavowed enforcement as
24 to Plaintiff. The Mandates therefore impose an ongoing restraint that forces
25 Plaintiff to refrain from constitutionally protected public carriage, submit to
26 compelled speech, or risk arrest and prosecution. See *Susan B. Anthony List*, 573
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1 U.S. at 159–61; *Presbytery of N.J. of the Orthodox Presbyterian Church v. Florio*,
2 40 F.3d 1454, 1463 (3d Cir. 1994); *Nat’l Shooting Sports Found. v. Att’y Gen. of*
3 *N.J.*, 80 F.4th 215, 220–23 (3d Cir. 2023).

4
5 33. The claims are ripe because the statute’s compelled-speech
6 requirement and vagueness regarding “immediacy” exert present, daily pressure on
7 Plaintiff to alter or forgo protected conduct during routine stops. The undefined
8 timing command, coupled with felony-grade liability, grants officers after-the-fact
9 discretion to declare Plaintiff’s timing criminal. That structure chills protected
10 conduct and invites arbitrary enforcement. *Grayned v. City of Rockford*, 408 U.S.
11 104, 108–09 (1972); *Kolender v. Lawson*, 461 U.S. 352, 357–58 (1983). By
12 mandating immediate firearm disclosure under fourth-degree penalty, the statute
13 alters the dynamics of routine stops in a manner that reasonably deters lawful
14 public carriage. *Pennsylvania v. Mimms*, 434 U.S. 106, 110 (1977).

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19 34. Plaintiff’s preemption claim is ripe because it is purely legal and
20 presently affects federally protected interstate travel. The Disclosure Mandate adds
21 a state-law criminal condition at the moment of a stop. As applied to §
22 926A-qualifying travel, the Disclosure Mandate stands as an obstacle to
23 Congress’s objectives by imposing immediate compelled disclosure during a stop
24 or detention at the precise moment Congress sought to shield travelers from
25 discretionary arrest and prosecution. By attaching criminal liability to silence
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1 during federally protected transport, the statute recreates the risk of arrest and
2 criminal exposure that § 926A was enacted to eliminate.

3
4 **VI. STATEMENT OF FACTS**

5 35. Before November 2025, Plaintiff regularly engaged in lawful public carriage and
6 incidental, secured vehicle transport of a handgun in New Jersey. Since November
7 2025, Plaintiff has ceased transporting any firearm outside his home because the
8 Mandates impose criminal penalties during ordinary stops and detentions and
9 create a credible threat of arrest and prosecution for silence or roadside
10 nonproduction. Plaintiff's cessation continues. Plaintiff intends to resume this
11 lawful conduct immediately upon entry of prospective relief.

12 36. Plaintiff has ceased transporting firearms incidental to his lawful
13 public carriage in a motor vehicle solely because compliance with the Disclosure
14 Mandate subjects him to criminal liability for failure to immediately disclose under
15 threat of fourth-degree prosecution.

16 37. Before obtaining his New Jersey Permit to Carry, Plaintiff was not
17 required to disclose the presence of, display a license for, or surrender a handgun
18 to law enforcement during a traffic stop when the handgun was stored in a motor
19 vehicle. Plaintiff's handguns, when transported, remain unloaded, secured in a
20 locked container, vehicle safe, or trunk, and are not readily accessible to any
21 occupant while driving. The challenged statute imposes new, affirmative
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1 criminally enforceable duties triggered solely by Plaintiff's permit status, even
2 though the manner of transport remains unchanged and presents no increased risk
3 or accessibility.
4

5 38. Plaintiff intends to resume lawful public carriage, including transport
6 incidental thereto for lawful self-defense and professional purposes, immediately
7 upon entry of injunctive relief.
8

9 39. Since November 2025, Plaintiff has not transported any firearm
10 outside his home.
11

12 40. Plaintiff's abstention from transporting firearms is directly and solely
13 caused by the credible threat of criminal prosecution under N.J.S.A. § 2C:58-
14 4.4(b)(1) and (b)(2).
15

16 41. But for the Disclosure Mandate, Plaintiff intends to continue
17 transporting his handgun incidental to lawful public carriage in a manner designed
18 to maximize safety and compliance: unloaded, secured in a locked container,
19 vehicle safe, or trunk, and not readily accessible to any occupant while driving.
20
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22 42. Plaintiff defines public carriage and bearing arms to include the lawful
23 possession and carrying of a firearm outside the home for self-defense. "Bearing
24 arms" refers to the carrying of firearms by law-abiding citizens in public for
25 purposes of self-defense, including during ordinary public movement outside the
26 home and not limited to any single method of carry. The manner in which a law-
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1 abiding citizen chooses to carry a firearm for self-defense varies based on personal
2 preference, safety considerations, and the circumstances of travel, including
3 carrying on the person, in a bag or container or within a motor vehicle during
4 ordinary public movement. A firearm stored unloaded, secured, and not readily
5 accessible in a vehicle remains part of the exercise of the right to bear arms. This
6 definition reflects ordinary self-defense practices and does not depend on any
7 single method of carry outside the home. See *District of Columbia v. Heller*, 554
8 U.S. 570, 584 (2008); *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 32
9 (2022).
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14 43. N.J.S.A. § 2C:58-4.4(b)(1) and (c) provide no definition of the phrase
15 “carrying a handgun in public.” The statute does not clarify whether “carrying”
16 refers only to a handgun worn on the person, a handgun immediately accessible in
17 a vehicle, or any circumstance in which a handgun is merely present in a motor
18 vehicle while a citizen moves through public space.
19

20
21 44. Because the statute leaves the triggering condition undefined in a
22 criminal statute, it delegates to individual officers the authority to determine—case
23 by case and after the fact—whether a citizen was “carrying a handgun in public”
24 for purposes of imposing criminal liability. A criminal statute that fails to define
25 the conduct triggering liability invites arbitrary enforcement and chills
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1 constitutionally protected activity. See *Kolender v. Lawson*, 461 U.S. 352, 357–58
2 (1983); *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).
3

4 45. Temporary secured storage of a firearm during transit—including
5 storage unloaded in a locked container, vehicle safe, or trunk, and not readily
6 accessible to any occupant while driving—is incidental to and inseparable from
7 lawful public carriage and therefore falls within the Second Amendment’s
8 protection of bearing arms in public.
9
10

11 46. During public carriage by motor vehicle, Plaintiff is subject to being
12 stopped or detained by law enforcement for routine reasons, such as traffic
13 enforcement, accident scenes, or investigative detentions.
14

15 47. A routine traffic stop is a seizure. Its permissible duration is limited to
16 addressing the traffic violation and ordinary inquiries incident to the stop. The stop
17 may not be prolonged to pursue unrelated criminal investigations absent
18 independent reasonable suspicion. *Rodriguez v. United States*, 575 U.S. 348, 354–
19 57 (2015).
20
21

22 48. Section 2C:58-4.4(c) triggers on detention “as part of a criminal
23 investigation,” but the statute supplies no objective definition of “criminal
24 investigation.” That omission enables discretionary relabeling of routine traffic
25 enforcement into a “criminal investigation” to demand firearm turnover and
26 inspection. The statute’s undefined “criminal investigation” trigger permits
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1 discretionary expansion of routine stops into investigative detentions, creating a
2 credible risk of compelled seizure in ordinary encounters.
3

4 49. The Disclosure Mandate compels Plaintiff to immediately disclose
5 that a handgun is stored in the vehicle during stops or detentions, on pain of
6 fourth-degree criminal liability under N.J.S.A. § 2C:58-4.4(b)(1). The statute
7 supplies no guidance on sequencing, phrasing, or timing relative to officer
8 commands, requests for identification, or other compliance requirements during a
9 stop.
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12 50. Plaintiff wishes to remain silent about the presence of an unloaded,
13 locked, inaccessible handgun because compelled disclosure can escalate otherwise
14 routine encounters and create avoidable safety risk to Plaintiff.
15

16 51. Plaintiff reasonably fears that mistaken or delayed disclosure,
17 misunderstanding of the law, or field disagreement about what “immediate”
18 disclosure requires will expose him to arrest, prosecution, and collateral
19 consequences, including permit jeopardy arising from delayed or disputed
20 disclosure.
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23 52. The statute provides no objective definition of immediately and
24 establishes no safe harbor clarifying when disclosure must occur during a stop or
25 detention.
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1 53. The absence of a defined temporal standard invites discretionary
2 enforcement and exposes Plaintiff to criminal liability based on after-the-fact
3 judgments about timing.
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5 54. The credible threat of enforcement imposes an ongoing present
6 restraint on Plaintiff's conduct.
7

8 55. Plaintiff must either refrain from constitutionally protected public
9 carriage, submit to compelled speech during police encounters, or risk arrest and
10 prosecution.
11

12 56. Plaintiff holds a valid New Jersey permit to carry. In ordinary life,
13 Plaintiff may at times be unable to immediately produce the physical permit card
14 during a traffic stop—for example, if a wallet is stolen, misplaced, damaged,
15 forgotten, or inaccessible at the roadside—despite being fully and continuously
16 licensed.
17

18 57. The Display Mandate criminalizes that passive failure to display even
19 when the permit is valid and could be promptly verified through ordinary
20 law-enforcement channels or produced shortly thereafter. Plaintiff alleges that his
21 valid New Jersey permit to carry is issued pursuant to a statewide licensing system
22 administered under the authority and oversight of the New Jersey State Police and
23 is reflected in official permitting records maintained by the State. During a routine
24 stop, officers may access statewide law-enforcement information systems or
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26
27
28

1 dispatch channels to confirm licensing status. Temporary roadside nonproduction
2 of a physical permit card therefore does not reliably indicate unlicensed carry.
3
4 Nevertheless, the Display Mandate converts an otherwise lawful, continuously
5 licensed citizen into an arrestable suspect based solely on temporary inability to
6 display a physical card at the roadside.
7

8 58. New Jersey’s other licensing regimes commonly treat “failure to
9 exhibit” as fine-level conduct that may be cured by later proof of valid licensure,
10 not as indictable criminal conduct. See, e.g., N.J.S.A. § 23:3-1(f)(1)
11 (hunting/fishing/trapping—\$10 plus costs for failing to conspicuously display);
12 N.J.S.A. § 12:7-61 (boating license—failure to exhibit is presumptive evidence of
13 non-licensure); N.J.S.A. § 39:3-29 (driver’s license—\$150 penalty for failure to
14 exhibit upon request, and municipal court may dismiss upon later exhibition of a
15 license valid on the date charged). The Display Mandate departs from that
16 proportionate approach by criminalizing roadside nonproduction and escalating
17 repeat nonproduction to a fourth-degree crime.
18
19
20
21

22 59. Defendants possess and exercise statewide authority to enforce, direct
23 enforcement of, and supervise enforcement of the Mandates.
24

25 60. Plaintiff’s intended conduct is within the statute’s coverage during
26 routine stops.
27
28

1 61. Defendants have not disavowed enforcement against Plaintiff's
2 intended conduct.

3
4 62. Plaintiff does not always carry a handgun on his person while engaged
5 in ordinary public movement.

6
7 63. In many ordinary circumstances, Plaintiff transports a handgun stored
8 in the vehicle rather than worn on his person.

9
10 64. When transporting a handgun in a vehicle, Plaintiff oftentimes stores
11 it unloaded, secured in a locked container, vehicle safe, or trunk, and not readily
12 accessible to any occupant while driving.

13
14 65. The Disclosure Mandate applies when Plaintiff is stopped or detained
15 while engaged in lawful public carriage with a handgun stored in a motor vehicle
16 and compels immediate disclosure that the handgun is stored in the vehicle.
17 N.J.S.A. § 2C:58-4.4(b)(1).

18
19 66. The Disclosure Mandate imposes heightened affirmative duties
20 backed by serious criminal penalties on permit holders who have undergone
21 extensive training, vetting, and licensure.

22
23 67. Plaintiff is a firearms instructor.

24
25 68. Transporting firearms incidental to lawful public carriage is necessary
26 to conduct lawful instruction, demonstrations, and professional training services.
27
28

1 69. Because the Disclosure Mandate criminalizes failure to immediately
2 disclose the presence of a secured firearm during any stop or detention, Plaintiff
3 has ceased transporting firearms incidental to lawful public carriage and has ceased
4 conducting instruction requiring such transport.
5

6 70. Since November 2025, Plaintiff has not carried a firearm in public and
7 has not transported any firearm outside his home.
8

9 71. Plaintiff's complete cessation is ongoing and is directly attributable to
10 the Disclosure Mandate's compelled immediate disclosure requirement backed by
11 fourth-degree criminal penalties.
12

13 72. Plaintiff's intended transport is peaceable and non-threatening; the
14 handgun is not carried on his person, brandished, or handled during transit; it is
15 secured for safe and lawful transport incidental to public carriage.
16

17 73. Based on his professional experience providing firearms instruction to
18 both civilians and law enforcement personnel, Plaintiff is familiar with commonly
19 applied officer-safety response protocols during vehicle stops.
20

21 74. Plaintiff understands that the mention of a firearm during a stop is
22 routinely treated as a heightened safety signal that may alter officer response
23 posture even where the firearm is unloaded, locked, and not readily accessible.
24

25 75. The statute applies categorically without any individualized suspicion
26 that a permit holder is dangerous.
27
28

1 76. By mandating immediate firearm disclosure under fourth-degree
2 penalty, the statute alters the dynamics of routine stops in a manner that reasonably
3 deters lawful public carriage. *Mimms*, 434 U.S. 106, 110.

4
5 77. The Turnover Mandate compels physical transfer of the handgun to
6 law enforcement for “inspection,” which is a seizure. In Plaintiff’s as-applied
7 scenario, compliance would often require Plaintiff to access a locked container,
8 vehicle safe, or trunk and handle a handgun during a roadside encounter—
9 precisely the type of forced handling that increases risk and escalates ordinary
10 traffic stops.

11
12 78. Under Terry’s framework, officer-safety measures require facts
13 supporting reasonable suspicion that the person is armed and presently dangerous,
14 not merely armed. *Terry v. Ohio*, 392 U.S. 1, 30 (1968); *Arizona v. Johnson*, 555
15 U.S. 323, 326–27, 332–33 (2009). For vehicle protective searches, the justification
16 requires a reasonable belief that the suspect is dangerous and may gain immediate
17 control of weapons. *Michigan v. Long*, 463 U.S. 1032, 1049–50 (1983).

18
19 79. The Third Circuit has rejected an “automatic firearm exception” to
20 Terry where the facts do not indicate illegal possession or dangerousness. *United*
21 *States v. Ubiles*, 224 F.3d 213, 217–18 (3d Cir. 2000).

22
23 80. Plaintiff engages in interstate public carriage qualifying for federal
24 safe-passage protection under 18 U.S.C. § 926A, including travel between
25
26
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1 jurisdictions where he may lawfully possess and carry firearms, with the firearm
2 unloaded and not readily accessible. See *Revell v. Port Auth. of N.Y. & N.J.*, 598
3 F.3d 128, 136–37 (3d Cir. 2010).

4
5 81. As applied to § 926A-qualifying travel, the Disclosure Mandate
6 imposes additional state-law conditions and criminal penalties that interfere with
7 Congress's purpose of protecting safe passage from burdensome and inconsistent
8 state restrictions.
9

10
11 82. Plaintiff intends to immediately resume lawful public carriage and
12 transportation of his handgun in the manner described in this Complaint upon entry
13 of injunctive relief. Until such relief is granted, Plaintiff must continue to refrain
14 from constitutionally protected conduct to avoid criminal prosecution under the
15 challenged statute. This ongoing deterrence imposes a present and continuing
16 constitutional injury that will persist each day the statute remains enforceable
17 against Plaintiff.
18
19

20
21 83. The Mandates operate in sequence during an ordinary roadside stop. If
22 Plaintiff cannot immediately display a physical permit card, § 2C:58-4.4(b)(2)
23 treats that temporary nonproduction as criminal conduct even though Plaintiff
24 remains validly licensed and his status may be confirmed through ordinary law-
25 enforcement channels. That criminalized omission can then furnish the asserted
26 basis for escalating the encounter, prolonging the stop, or demanding firearm
27
28

1 turnover and inspection under § 2C:58-4.4(c), thereby attaching compelled
2 production and compelled seizure to a routine traffic encounter involving an
3 unloaded, locked, and inaccessible handgun.
4

5 84. In Plaintiff's as-applied circumstances, the statutory scheme imposes
6 criminal consequences untethered to misuse, accessibility, or individualized
7 dangerousness. Plaintiff's intended conduct involves a handgun that is unloaded,
8 secured in a locked container, vehicle safe, or trunk, and not readily accessible to
9 any occupant during travel. Yet the Mandates attach escalating criminal penalties
10 and compulsory roadside duties to that peaceable conduct based on regulatory
11 noncompliance alone, rather than any historically recognized finding that Plaintiff
12 is dangerous or that the firearm is immediately available for use.
13
14
15

16 85. Defendants have never disavowed enforcement of N.J.S.A. § 2C:58-
17 4.4(b)(1), (b)(2), or (c) against permit holders engaged in the type of secured
18 vehicle transport described in this Complaint. Public guidance issued by the New
19 Jersey State Police instructs permit holders that disclosure and permit display are
20 mandatory if stopped while carrying or traveling with a handgun. Those
21 instructions confirm that the Mandates are intended to apply during routine traffic
22 stops and other ordinary law-enforcement encounters.
23
24
25

26 86. The Attorney General and the New Jersey State Police have issued
27 statewide training materials directing law-enforcement officers that, if a permit
28

1 holder is stopped or detained while carrying or traveling with a handgun, the
2 individual must immediately disclose the presence of the firearm and must display
3 a permit. These materials are directed to all law-enforcement agencies and certified
4 firearms instructors and reflect the State’s official enforcement posture. The same
5 materials reference ongoing federal litigation, including Koons/Siegel v. Platkin,
6 while continuing to instruct enforcement of the challenged mandates. This
7 confirms that enforcement is deliberate, statewide, and maintained notwithstanding
8 constitutional challenges.
9
10
11

12 87. Plaintiff regularly drives on public roads in New Jersey. Like all
13 drivers, Plaintiff is subject to routine traffic stops, accident investigations, and
14 other ordinary police encounters. During such encounters Plaintiff may be required
15 to stop his vehicle and interact with law-enforcement officers while engaged in the
16 type of firearm transport described in this Complaint.
17
18

19 88. During a routine traffic stop, drivers are ordinarily required to follow
20 officer instructions regarding identification, vehicle documentation, and other
21 compliance procedures. The statute requires “immediate” firearm disclosure but
22 provides no guidance regarding timing relative to officer commands. As a result, a
23 permit holder may be forced to choose between interrupting an officer, delaying
24 disclosure, or waiting for instructions—any of which may later be characterized as
25 criminally insufficient timing.
26
27
28

1 individuals engaged in lawful public carriage, including the transport of a handgun
2 in a motor vehicle.

3
4 93. The Second Amendment protects the right of law-abiding citizens to
5 keep and bear arms for self-defense, including carriage in public and movement
6 through public space. See *District of Columbia v. Heller*, 554 U.S. 570, 582–84
7 (2008); *McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010); *New York State*
8 *Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 24–26, 30–33 (2022).

9
10
11 94. N.J.S.A. § 2C:58-4.4(b)(1), (b)(2), and (c) burden conduct covered by
12 the plain text of the Second Amendment by conditioning the exercise of the right
13 to bear arms on compelled disclosure, permit display, and firearm surrender during
14 stops and detentions. The conduct regulated by these provisions—public carriage
15 of a firearm during ordinary travel—falls squarely within the Second
16 Amendment’s plain text, and these provisions condition that conduct on compelled
17 actions under threat of criminal penalty. Conditioning the exercise of the right to
18 bear arms on compelled conduct under threat of criminal penalty constitutes a
19 burden on the right itself, even where the law does not directly prohibit possession
20 or carriage.
21
22
23
24

25 95. Because N.J.S.A. § 2C:58-4.4(b)(1), (b)(2), and (c) regulate conduct
26 covered by the Second Amendment’s plain text, the burden shifts to Defendants to
27 demonstrate that the challenged requirements are consistent with this Nation’s
28

1 historical tradition of firearm regulation. As applied to Plaintiff’s conduct—
2 transporting an unloaded, secured, and inaccessible handgun in a motor vehicle—
3 these provisions impose criminal penalties untethered to any historical tradition
4 and absent any individualized finding of dangerousness. More broadly, the
5 challenged provisions impose categorical criminal conditions on the exercise of the
6 right to bear arms without regard to accessibility, dangerousness, or misuse. In
7 defending materially similar burdens on vehicle-based public carriage, the State
8 was not able to provide a historically grounded analogue comparable in burden and
9 justification. See *Koons v. Platkin*, 673 F. Supp. 3d 515, 605–06 (D.N.J. 2023).
10 The same defect is present here. See *New York State Rifle & Pistol Ass’n v. Bruen*,
11 597 U.S. 1, 24–26, 29–30 (2022); *United States v. Rahimi*, 602 U.S. 680, 687–92
12 (2024).
13
14
15
16
17

18 96. The statute is also unconstitutional on its face because it imposes
19 categorical criminal conditions on the exercise of a fundamental right without
20 regard to accessibility, dangerousness, or misuse, and lacks any relevant historical
21 analogue. See *Bruen*, 597 U.S. at 47–49.
22

23 97. Accordingly, the challenged provisions violate the Second
24 Amendment both facially and as applied.
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26
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28

COUNT II

Fourth Amendment— (Facial and As-Applied) (42 U.S.C. § 1983)

1
2
3 98. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 97,
4 as if fully set forth herein.

5
6 99. The Fourth Amendment protects against unreasonable searches and
7 seizures. A traffic stop is a seizure limited in scope and duration to its mission. See
8 *Rodriguez v. United States*, 575 U.S. 348, 354–57 (2015).

9
10 100. N.J.S.A. § 2C:58-4.4(c) authorizes and compels the seizure and
11 inspection of a lawfully possessed firearm during a detention, including routine
12 traffic stops, without requiring individualized suspicion that the individual is armed
13 and presently dangerous or that the firearm is within immediate control.

14
15 101. As applied to Plaintiff’s conduct—where the firearm is unloaded,
16 secured, and not readily accessible—the compelled turnover constitutes an
17 unreasonable seizure under *Terry v. Ohio*, 392 U.S. 1, 30 (1968), *Arizona v.*
18 *Johnson*, 555 U.S. 323, 332 (2009), and *Michigan v. Long*, 463 U.S. 1032, 1049–
19 50 (1983).

20
21
22 102. The statute is also facially unconstitutional because it authorizes
23 suspicionless seizures untethered to individualized dangerousness and invites
24 impermissible extension of traffic stops beyond their lawful mission. See
25
26 *Rodriguez*, 575 U.S. at 354–57.

1 109. The statute is facially unconstitutional because it invites arbitrary
2 enforcement and fails to establish minimal guidelines to govern law enforcement.
3

4 110. Accordingly, the statute violates the Fourteenth Amendment both
5 facially and as applied.
6

7 **SUPPLEMENTAL CLAIMS (INDEPENDENT AND ALTERNATIVE**

8 **BASES FOR RELIEF)**

9 **COUNT IV**

10 **First Amendment — Compelled Speech (As Applied) (42 U.S.C. § 1983)**

11 111. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through
12 110, as if fully set forth herein.
13

14 112. New Jersey makes it a fourth-degree crime for a permit holder, when
15 stopped or detained while traveling with a handgun in a motor vehicle, to
16 “immediately disclose” that a handgun is stored in the vehicle. N.J.S.A. § 2C:58-
17 4.4(b)(1). That requirement compels Plaintiff to speak during law-enforcement
18 encounters as a condition of exercising his right to bear arms and to travel while
19 lawfully transporting an unloaded, secured, and inaccessible handgun. Compelled
20 speech is presumptively unconstitutional absent narrow tailoring to a sufficiently
21 strong justification. See *Wooley*, 430 U.S. at 714; *Barnette*, 319 U.S. at 642.
22 Plaintiff does not challenge an officer’s authority to ask questions or to take
23 constitutionally justified safety measures. Plaintiff challenges the State’s decision
24 to criminalize silence and to impose an undefined timing mandate (“immediately”)
25
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27
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1 backed by felony-grade penalties in routine encounters where less restrictive
2 alternatives exist.

3
4 113. The Disclosure Mandate compels a specific message about lawful
5 firearm possession that Plaintiff would not otherwise convey. It criminalizes
6 silence based solely on Plaintiff’s exercise of constitutionally protected conduct.
7
8 See *Wooley*, 430 U.S. at 714; *Barnette*, 319 U.S. at 642; *Riley*, 487 U.S. at 795–97;
9
10 *303 Creative*, 600 U.S. at 597–603; *NIFLA v. Becerra*, 585 U.S. 755, 766–68
11 (2018).

12 114. The compelled disclosure is content-based, triggered by Plaintiff’s
13 lawful conduct and permit status, and is not narrowly tailored to any
14 individualized, articulable officer-safety need. The statute applies categorically
15 regardless of firearm accessibility or the reason for the stop. See *Hurley*, 515 U.S.
16 at 573.

17
18 115. The undefined requirement that disclosure be “immediate,” coupled
19 with criminal liability, grants officers unfettered discretion to decide after the fact
20 whether Plaintiff’s timing was sufficient. That design chills protected conduct and
21 invites arbitrary enforcement. *Grayned*, 408 U.S. at 108–09; *Kolender*, 461 U.S. at
22 357–58.

23
24 116. The compelled disclosure alters Plaintiff’s lawful conduct, chills
25 constitutional rights, and forces Plaintiff to choose between compelled speech and
26
27
28

1 criminal punishment during routine stops. That coercion inflicts a present and
2 ongoing injury. See *Ashcroft*, 535 U.S. at 244–45.

3
4 117. This claim is pleaded independently, in the alternative, and without
5 waiver of any other claim or theory of relief, and does not depend on the success of
6 Plaintiff’s Second Amendment claims. See *Wooley v. Maynard*, 430 U.S. 705, 714
7 (1977); *Riley v. Nat’l Fed’n of the Blind*, 487 U.S. 781, 795–97 (1988).

8
9
10 **COUNT V**
11 **Fourteenth Amendment — Equal Protection (42 U.S.C. § 1983)**

12 118. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through
13 117, as if fully set forth herein.

14 119. Defendants, acting under color of state law, enforce N.J.S.A. § 2C:58-
15 4.4(b)(1), which creates a classification that turns on permit status among
16 individuals who are otherwise identically situated with respect to lawful firearm
17 possession, transport, and accessibility. Plaintiff and similarly situated permit
18 holders are law-abiding citizens who may lawfully possess and transport firearms
19 that are unloaded, secured, and not readily accessible during vehicle travel. Other
20 individuals may lawfully transport firearms under identical conditions without
21 being subject to the challenged mandates.
22
23
24

25 120. As applied to secured vehicle transport, permit holders and other
26 lawful firearm transporters are indistinguishable with respect to dangerousness,
27 accessibility, and risk. Nevertheless, the statute imposes criminally enforceable
28

1 duties on permit holders alone. This differential treatment is not based on conduct,
2 accessibility, or misuse, but solely on permit status.

3
4 121. The challenged classification does not regulate based on accessibility,
5 dangerousness, or misuse, but solely on permit status among individuals who are
6 otherwise identically situated with respect to lawful firearm transport. As applied
7 to secured vehicle transport, permit holders and other lawful firearm transporters
8 are indistinguishable with respect to risk, yet the statute imposes heightened
9 criminal obligations on permit holders alone. Because this classification burdens
10 the exercise of fundamental constitutional rights—including the right to bear arms
11 and the right to be free from unreasonable seizures—it warrants heightened
12 scrutiny and cannot be justified by generalized or speculative safety concerns. See
13 *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 446–50 (1985); *Nordlinger*
14 *v. Hahn*, 505 U.S. 1, 10 (1992); *Village of Willowbrook v. Olech*, 528 U.S. 562,
15 564 (2000); *Hill v. Borough of Kutztown*, 455 F.3d 225, 239 (3d Cir. 2006).
16
17
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19
20

21 122. In the alternative, Plaintiff satisfies the requirements of a class-of-one
22 claim because he has been intentionally treated differently from others similarly
23 situated without a rational basis.

24
25 123. This claim is pleaded independently, in the alternative, and without
26 waiver of any other claim or theory of relief.
27
28

COUNT VI

Supremacy Clause — Conflict and Obstacle Preemption (FOIPA as Applied)

1
2
3 124. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through
4
5 123, as if fully set forth herein.

6 125. Congress enacted 18 U.S.C. § 926A to establish a uniform,
7
8 nationwide safe-passage rule protecting law-abiding firearm owners from arrest
9
10 and prosecution during interstate transportation when the firearm is unloaded and
11
12 not readily accessible, and when the traveler may lawfully possess the firearm at
both the origin and destination. See *Revell*, 598 F.3d at 136–37.

13 126. As applied to § 926A-qualifying travel, the Disclosure Mandate stands
14
15 as an obstacle to Congress’s objectives by imposing a state-law criminal
16
17 condition—immediate compelled disclosure during a stop or detention—at the
18
19 precise moment Congress sought to shield travelers from discretionary arrest and
20
21 prosecution. By attaching criminal liability to silence during federally protected
22
23 transport, the statute recreates the risk of arrest and criminal exposure that § 926A
24
25 was enacted to eliminate.

26 127. Under the Supremacy Clause, state laws that conflict with federal law
27
28 or stand as an obstacle to the accomplishment and execution of Congress’s full
purposes and objectives are preempted. Plaintiff seeks only prospective equitable
relief against state officers to prevent ongoing enforcement of a state criminal
condition that is preempted as applied. *Arizona v. United States*, 567 U.S. 387, 399

1 (2012); *Gade v. Nat'l Solid Wastes Mgmt. Ass'n*, 505 U.S. 88, 98 (1992); *Verizon*
2 *Md. Inc. v. Pub. Serv. Comm'n of Md.*, 535 U.S. 635, 642 (2002); *Shaw v. Delta*
3 *Air Lines, Inc.*, 463 U.S. 85, 96 n.14 (1983); *Armstrong v. Exceptional Child Ctr.,*
4 *Inc.*, 575 U.S. 320, 326–28 (2015); *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941).

5
6
7 128. Plaintiff's Supremacy Clause theory is limited to circumstances of
8 direct and positive conflict, consistent with 18 U.S.C. § 927.

9
10 129. This claim is pleaded independently, in the alternative, and without
11 waiver of any other claim or theory of relief.

12 **PRELIMINARY INJUNCTION CONSIDERATIONS / IRREPARABLE**

13
14 **HARM**

15 130. Plaintiff repeats and realleges the allegations contained in paragraphs
16 1 through 129, as if fully set forth herein.

17
18 131. Plaintiff pleads the following allegations to demonstrate the
19 immediacy, continuing nature, and irreparability of the constitutional injuries
20 supporting prospective equitable relief.

21
22 132. The loss or burdening of constitutional rights constitutes irreparable
23 injury as a matter of law. *Elrod*, 427 U.S. at 373 (1976).

24
25 133. The loss of First Amendment freedoms, even for minimal periods of
26 time, unquestionably constitutes irreparable injury. *Roman Cath. Diocese*, 592 U.S.
27 at 19; *Elrod*, 427 U.S. at 373. The compelled choice between silence and criminal
28

1 liability inflicts immediate and ongoing First Amendment harm independent of any
2 completed prosecution.
3

4 134. The ongoing chilling of Plaintiff’s Second Amendment right to
5 engage in lawful public carriage, including secured transport incidental thereto,
6 constitutes present constitutional injury not compensable by money damages. See
7 *Ezell*, 651 F.3d at 699; *Reilly*, 858 F.3d at 179.
8

9 135. The threat of arrest, prosecution, and criminal record exposure for a
10 fourth-degree offense imposes reputational, professional, and liberty harms that
11 cannot be undone by subsequent monetary relief.
12

13 136. Absent injunctive relief, Plaintiff must continuously forgo
14 constitutionally protected conduct to avoid criminal exposure, a coercive restraint
15 that itself constitutes irreparable harm.
16
17

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff Dwight D. Mitchell respectfully requests that this
20 Court:
21

22 137. Declare that N.J.S.A. § 2C:58-4.4(b)(1), (b)(2), and (c) violate the Second
23 Amendment both facially and as applied, including as applied to Plaintiff’s lawful
24 public carriage of a handgun stored in a motor vehicle that is unloaded, secured,
25 and not readily accessible.
26
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28

1 138. Declare that N.J.S.A. § 2C:58-4.4(c) violates the Fourth Amendment
2 both facially and as applied by authorizing seizure and inspection of lawfully
3 possessed firearms without an individualized basis to believe a person is armed and
4 presently dangerous or has immediate access to a weapon.
5

6 139. Declare that N.J.S.A. § 2C:58-4.4(b)(1), (b)(2), and (c) violate the
7 Fourteenth Amendment both facially and as applied because they impose criminal
8 liability based on undefined terms that fail to provide fair notice and invite
9 arbitrary enforcement.
10

11 140. Declare that N.J.S.A. § 2C:58-4.4(b)(1) violates the First Amendment
12 as applied by compelling speech during routine law enforcement encounters under
13 threat of criminal penalty.
14

15 141. Declare that N.J.S.A. § 2C:58-4.4(b)(1) violates the Equal Protection
16 Clause as applied.
17

18 142. Declare that N.J.S.A. § 2C:58-4.4(b)(2) violates the Second and
19 Fourteenth Amendments as applied where a valid permit holder is unable to
20 immediately display a physical permit during a routine roadside encounter
21 notwithstanding valid licensure.
22

23 143. Declare that N.J.S.A. § 2C:58-4.4(c) violates the Fourth and Second
24 Amendments as applied by compelling firearm turnover and inspection during
25 routine stops without an independent lawful basis.
26
27
28

1 144. Declare that N.J.S.A. § 2C:58-4.4(b)(1)–(2), as applied to interstate
2 transportation protected under 18 U.S.C. § 926A, are preempted to the extent they
3 impose criminal liability in a manner that creates a direct and positive conflict with
4 federal safe-passage protections.
5

6 145. Temporarily, preliminarily, and permanently enjoin Defendants, their
7 officers, agents, employees, and all persons acting in concert with them from
8 enforcing N.J.S.A. § 2C:58-4.4(b)(1) against Plaintiff as applied to lawful public
9 carriage by motor vehicle where the handgun is unloaded, secured in a locked
10 container, vehicle safe, or trunk, and not readily accessible, including during
11 routine traffic stops absent an independent lawful basis under the Fourth
12 Amendment to prolong the stop beyond its mission.
13
14
15

16 146. Temporarily, preliminarily, and permanently enjoin Defendants, their
17 officers, agents, employees, and all persons acting in concert with them from
18 enforcing N.J.S.A. § 2C:58-4.4(b)(2) and (c) against Plaintiff as applied during
19 routine traffic stops where Plaintiff holds a valid permit but is unable to
20 immediately display a physical permit, and where there is no independent lawful
21 basis to compel firearm turnover or prolong the stop.
22
23
24

25 147. Grant such declaratory and injunctive relief, both facially and as
26 applied, as is necessary to remedy the constitutional violations alleged in Counts I
27 through III.
28

1 148. Award Plaintiff allowable costs under Fed. R. Civ. P. 54(d) and such
2 other relief as the Court deems just and proper.
3

4 Plaintiff files this Complaint pro se while seeking to retain counsel.

5 Respectfully submitted,

6
7 /s/ Dwight D. Mitchell
8 Dwight D. Mitchell
9 Plaintiff Pro Se
10 20 Summershade Circle
11 Piscataway, NJ 08854
12 ddm@maa-imcs.com

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Dated: April 13, 2026