

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
MACON COUNTY, ILLINOIS**

DAN CAULKINS, PERRY LEWIN, DECATUR)
JEWELRY & ANTIQUES, INC and)
LAW-ABIDING GUN OWNERS OF MACON)
COUNTY, a voluntary unincorporated association)

Plaintiffs)
)

vs.)

Governor JAY ROBERT PRITZKER, in his)
official capacity.)

2023 CH 3

EMANUEL CHRISTOPHER WELCH, in his)
capacity as Speaker of the House.)

DONALD F. HARMON,)
in his capacity as Senate President.)

KWAME RAOUL, in his capacity as)
Attorney General.)
Defendants

**PLAINTIFFS' COMBINED MOTION FOR DECLARATORY JUDGMENT
PURSUANT TO 735 ILCS 5/2-701 AND/OR FOR TEMPORARY (with
notice) or PRELIMINARY INJUNCTION PURSUANT TO 735 ILCS 5/11-101**

NOW COME Plaintiffs, by and through their attorneys, Jerrold H. Stocks and Brian D. Eck of Featherstun, Gaumer, Stocks, Flynn & Eck, LLP and for their Combined Motion for Declaratory Judgment Pursuant to 735 ILCS 5/2-701 and/or for Temporary (with notice) or Preliminary Injunction Pursuant to 735 ILCS 5/11-101 *et seq.* state as follows:

1. Plaintiffs have filed a Verified Complaint including Exhibits which pleadings are incorporated herein as if specifically plead.

2. Plaintiffs have a protectable interest in not being subjected to a law impairing their fundamental right to bear arms, including the right to purchase, sell and possess, which was enacted in violation of the Illinois Constitution.

3. Plaintiffs are being immediately and irreparably harmed presently and each day that they continue to be subjected 720 ILCS 5/24-1.09 *et seq.* and 720 ILCS 5/24-1.10 *et seq* and these harms are a continuing transgression against their fundamental rights.

4. Plaintiffs have no adequate remedy at law to prohibit the Defendants from enforcement of 720 ILCS 5/24-1.09 *et seq.* and 720 ILCS 5/24-1.10 *et seq.*, absent an injunction from this Court ordering the same.

5. Monetary damages are not sufficient compensation as the complained of transgressions which are infringing upon the fundamental rights of Plaintiffs to bear arms are continuous in nature and no lawful remedy exists.

6. Plaintiffs are likely to succeed on the merits or, have presented a fair question for success on the merits, as to one or more of the following:

- Defendants are in violation of the Ill. Const. 1970, art. IV, § 8(d), for failure to comply with the Single Subject Rule.
- Defendants are in violation of the Ill. Const. 1970, art. IV, § 8(d), for failure to comply with the Three Readings Requirement.
- Defendants are in violation of the Ill. Const. 1970, art. I, §2, for failure to comply the Equal Protection Clause.
- Defendants are in violation of the Ill. Const. 1970, art. I, § 2, for failure to comply the Due Process Clause.
- * Defendants are in violation of the Ill. Const. 1970, art IV, Section 13, for the enactment of Special Legislation.

7. The balancing of the equities favor of the Plaintiffs for what is being taken away from them is their fundamental right to keep and bear arms, including all rights incidental to the enjoyment thereof, and if in fact the Defendants had a legitimate and compelling state interest which they were seeking to protect, they would not have carved out exceptions for large groups of politically connected organizations or created a de facto franchise to engage in gun commerce favoring the excepted class from the similarly situated non-excepted class.

8. Said another way, during the pendency of this matter, the balancing of the equities demands the Plaintiffs be treated the same as all those classes of individuals whose rights to bear arms are still intact given the legislature arbitrarily chose to exclude them from having to comply with those provisions of 720 ILCS 5/24-1.09 and 720 ILCS 5/24-1.10 which restrict the Plaintiffs fundamental rights to bear arms.

9. The Article IV violations enabled the enactment of an immediately effective criminal offense providing no Notice or opportunity to return property to rightful owners in accordance with then existing security/pawn agreements, impaired security agreements and took the property interests of each party thereto offending Ill. Const. 1970, art 1 Section 2; U. S. Constitution Amend. 5 and 14.

10. The Article IV violations have wreaked chaos in the ability to trade, purchase or transfer firearms chilling the ability to buy or sell, even lawfully, under the statutory scheme. (See Cooley Affidavit attached).

11. A multiplicity of judicial challenges are pending. More than 75% of County Sheriff's have pledged not to enforce the provisions of 720 ILCS 5/24-1.09 and 1.10 to accord fidelity to their oath of office to "support the Constitution of the United States, and the Constitution of the State of Illinois." Ill. Const. 1970, art. XIII, Section 3 (applicable under art.VII, Section 4.). Accordingly, chaotic and patch-work enforcement is imminent. If final declaratory judgment striking the enactment as unconstitutional is not entered, then preservation of status quo ante supports enjoining enforcement pending the final adjudication of all pending litigation.

WHEREFORE, the Plaintiffs respectfully pray this Court enter an order that provides for:

- A. Declaratory Judgment pursuant to 735 ILCS 5/2-701 that 720 ILCS 5/24-1.09 *et seq.* and 720 ILCS 5/24-1.10 *et seq.* are unconstitutional for one or more of the reasons stated herein or in the Complaint;
- B. For Entry of a Temporary and Preliminary Injunction enjoining Defendants, or any administrative agency or law enforcement agency under

its control, from exercising any color of authority to enforce 720 ILCS 5/24-1.09 *et seq.* and 720 ILCS 5/24-1.10 *et seq.* against Plaintiffs; and/or

C. Such further relief as this Court deems just and equitable.

Dan Caulkins, Perry Lewin, Decatur
Jewelry & Antiques, Inc and Law-
Abiding Gun Owners of Macon
County, a voluntary unincorporated
Association,

Plaintiffs,

BY: FEATHERSTUN, GAUMER,
STOCKS, FLYNN & ECK, LLP,

Their Attorneys,

By: /s/ Jerrold H. Stocks

/s/ Brian D. Eck

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AFFIDAVIT


I, Dan Cooley, do hereby affirm the following based on personal knowledge:

1. I am over the age of eighteen and competent to affirm the facts herein.
2. I own the Bullet Trap, Inc, Macon, IL, a gun range and business from which I engage in retail commercial and private consignment sales of firearms and ammunition. I have been in business since: August 1, 2011.
3. The Bullet Trap holds a valid and current Federal Firearms License [FFL]. The FFL has been held since Aug 1, 2010.
4. The enactment with immediate effect of P.A. 102-116 [720 ILCS 5/24-1.9 and 1.10, included] has chilled or suspended both intra-state and interstate commerce (sales and purchases) of any firearms specified or similar to, broadly defined, those arms included in the definitions section of the Public Act. Out of State wholesalers are withholding shipments to my business, including orders for law enforcement customers of mine.
5. Based on personal observations, the common and predominant customer of my business is not excepted from the provisions of the Public Act and, in most instances, said non-excepted customers are better or as: skilled in use, trained in use, and experienced in the gun trade as the class of gun-owners excepted from the provisions of the Public Act.

FURTHER AFFIANT SAYETH NOT

January 27, 2023

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.


Dan Cooley