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On Behalf Of:  
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## Legal Argument Against Oregon Ballot Measure 114: An Impermissible Financial Barrier, Undue Burden, and Violation of the Supreme Court's Bruen Precedent

### I. Introduction

Oregon Ballot Measure 114 (BM 114) imposes a permit-to-purchase requirement and a ban on magazines holding more than ten rounds, which collectively infringe upon the Second Amendment rights of Oregonians. Specifically, BM 114:

1. Creates an impermissible financial barrier to exercising a fundamental constitutional right.
2. Imposes an undue burden by requiring expensive training, fingerprinting, and an indefinite permit approval process.
3. Violates the Supreme Court's ruling in *New York State Rifle & Pistol Association v. Bruen* (2022) by applying a rejected two-step framework instead of the required historical tradition test.

Because BM 114 conditions the exercise of a constitutional right on an individual's ability to pay and unjustifiably restricts firearm ownership in a way that lacks historical precedent, it is unconstitutional and should be struck down.

### II. BM 114 Creates an Impermissible Financial Barrier

The Supreme Court has long held that conditioning the exercise of a constitutional right on a financial requirement is unconstitutional.

#### 1. Supreme Court Precedent on Financial Barriers to Rights

- In *Harper v. Virginia Board of Elections* (1966), the Court struck down a poll tax, holding that:
  - o "A State violates the Equal Protection Clause whenever it makes the affluence of the voter or payment of any fee an electoral standard."
  - o Even a small financial burden on a fundamental right is unconstitutional.
- In *Murdock v. Pennsylvania* (1943), the Court ruled that the government may not impose a fee for engaging in protected First Amendment activities.

Applying these precedents to BM 114:

- BM 114 requires citizens to pay for training and fingerprinting before they can purchase a firearm.
- The cost of compliance—including training, permit application fees, and travel expenses—creates a de facto paywall for exercising a constitutional right.
- This disproportionately affects low-income individuals, effectively barring them from lawful gun ownership.

Thus, BM 114's financial requirements function as an unconstitutional tax on the exercise of Second Amendment rights, violating the principles set forth in *Harper* and

Murdock.

III. BM 114 Imposes an Undue Burden on the Exercise of Second Amendment Rights Under Bruen, laws burdening the Second Amendment must align with historical regulations. BM 114 fails this test in two key ways:

1. Permit-to-Purchase Creates an Indefinite Delay

- BM 114 mandates a permit-to-purchase process with no guaranteed approval timeline.
- The measure allows law enforcement agencies to control the permit process, creating the potential for bureaucratic delays or even de facto denials.
- This indefinite delay means individuals cannot immediately exercise their Second Amendment rights, an issue the Supreme Court has ruled unconstitutional in other contexts.

2. No Historical Tradition for Pre-Purchase Training and Permits

- Under Bruen, the government must demonstrate that its regulations are consistent with historical firearm regulations from the Founding Era (1791).
- There is no historical precedent for requiring citizens to complete training, fingerprinting, and a permit process simply to purchase a firearm.
- The Supreme Court in Bruen explicitly rejected discretionary licensing systems, yet BM 114 imposes a similar system before purchase.

Because BM 114 lacks any historical analogue, it fails the test set by Bruen and is unconstitutional.

IV. The Oregon Court of Appeals Ignored Bruen by Applying the Rejected Two-Step Framework

1. The Two-Step Framework Was Explicitly Rejected by Bruen

Prior to Bruen, courts analyzed gun laws using a two-step approach:

1. Determine whether the law implicates Second Amendment conduct.
2. If so, apply means-end scrutiny, balancing public safety interests against Second Amendment rights.

In Bruen,