

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, Colorado 80523 Phone Number: (720) 865-8301	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Plaintiffs: Rocky Mountain Gun Owners, a Colorado nonprofit corporation; Representative Patrick Neville, House Minority Leader; Representative Lori Saine; and Representative Dave Williams</p> <p>Defendant: Jared S. Polis, in his official capacity as Governor of the State of Colorado</p>	
Barry K. Arrington, #16,486 Arrington Law Firm 3801 East Florida Avenue, Suite 830 Denver, Colorado 80210 Phone Number: (303) 205-7870 FAX Number: (303) 463-0410 E-mail: barry@arringtonpc.com Attorney for Plaintiffs	Case Number: _____
COMPLAINT	

Plaintiffs submit the following complaint against Defendant:

I. PARTIES

1. Plaintiff Rocky Mountain Gun Owners (“RMGO”) is a Colorado nonprofit corporation with a principal address of 2300 West Eisenhower Boulevard, Loveland, Colorado 80537. RMGO advocates for the right to keep and bear arms on behalf of thousands of Colorado citizens and brings this complaint on behalf of those citizens.

2. Plaintiff Patrick Neville is a Representative representing Colorado House District 45. Representative Neville is the Colorado House Minority Leader. In this capacity Representative Neville represents the members of the minority party (Republican) caucus of the Colorado House of Representatives.

3. Plaintiff Lori Saine is a Representative representing Colorado House District 63.

4. Plaintiff Dave Williams is a Representative representing Colorado House District 15.

5. Plaintiffs, and in the case of RMGO, its members, pay taxes in the State of Colorado. Defendant seeks to expend state funds to enforce a statute that was, as set forth in detail below, enacted contrary to the Constitution of the State of Colorado (the “Constitution”) and is thus void and of no effect. Plaintiffs and in the case of RMGO, its members, have therefore suffered an injury-in-fact because they seek review of what they claim are unlawful government expenditures which are contrary to Colorado’s state government. *Barber v. Ritter*, 196 P.3d 238, 245 (Colo. 2008).

6. Representatives Neville, Saine and Williams have individual standing as members of the Colorado House of Representatives to vindicate the legislative process as mandated by the Constitution and to thus ensure that statutes are not purportedly enacted in a fashion that violates the protections accorded to the democratic process by the Constitution. Indeed, Plaintiffs seek to ensure that laws are not enacted contrary to the rule of law.

7. Defendant Jared S. Polis is the Governor of the State of Colorado. This action is brought against him in his official capacity.

II. JURISDICTION & VENUE

8. This Court has jurisdiction over the subject matter of this action pursuant to Colo. Const. art. V, § 22; C.R.S. § 13-51-101, *et seq.*, and C.R.S. § 13-51-106.

9. Venue is proper in this Court pursuant to C.R.C.P. 98(b)(2).

III. GENERAL ALLEGATIONS

10. The Constitution was adopted by Colorado’s electorate on July 1, 1876. The Constitution took effect upon Colorado’s admission to the Union on August 1, 1876.

11. Article V of the Constitution governs the Legislative Department of Colorado’s government, which it vests in the General Assembly.

12. Article V of the Constitution specifies requirements for subjects ranging from the qualification of members of the General Assembly to when laws passed by the General Assembly generally take effect. *See* Colorado Const. art. V, §§ 4 and 19.

13. Article V, section 22 of the Constitution states:

Every bill shall be read by title when introduced, and **at length on two different days in each house; provided, however, any reading at length may be dispensed with upon unanimous consent of the members present.** All substantial amendments made thereto shall be printed for the

use of the members before the final vote is taken on the bill, and no bill shall become a law except by a vote of the majority of all members elected to each house taken on two separate days in each house, nor unless upon its final passage the vote be taken by ayes and noes and the names of those voting be entered on the journal.

(emphasis added).

14. The Constitution originally required three readings and did not permit the members present to dispense with the readings. *See* Authenticated Original Colorado State Constitution available at:

https://www.colorado.gov/pacific/sites/default/files/CO_Constitution_150dpi_Signed.pdf

15. The requirements of Article V, section 22 are mandatory. If either house fails to abide by these requirements in enacting a law, the law so enacted is invalid. *In re: House Bill 250*, 57 P. 49, 50 (Colo. 1889).

16. The object of the procedural requirements of Article V, section 22 is to “prevent, so far as possible, fraud and trickery and deceit and subterfuge in the enactment of bills, and to prevent hasty and ill-considered legislation.” *Id.*

17. House Bill 19-1177 (“HB 1177”) was introduced in the Colorado House of Representatives on February 14, 2019 and referred to the House Judiciary Committee. The Judiciary Committee amended the bill and referred it to the House Appropriations Committee on February 21, 2019. The Appropriations Committee referred the bill to the House Committee of the Whole on February 28, 2019. The House of Representatives ostensibly passed the bill on second reading on March 1, 2019 and on third reading on March 4, 2019. The Colorado Senate passed the bill with amendments on March 28, 2019. The House of Representatives concurred in Senate Amendments and repassed the bill on April 1, 2019. Governor Polis signed the bill on April 12, 2019.

18. On March 1, 2019, HB 1177 was considered on second reading by the Committee of the Whole of the Colorado House of Representatives.

19. House Rule 27(b) states:

Every bill shall be read by title when introduced, which shall constitute first reading, and at length on two different days prior to its being finally passed. Reading before the House sitting as committee of the whole shall constitute second reading. Unless a member shall request the reading of a bill in full when it is being considered on second or on third reading, it shall be read by title only, and the unanimous consent of the members present to dispense with the reading of the bill at length shall be presumed.

20. While HB 1177 was being considered on second reading, Representative Williams exercised his right under the Constitution and Rule 27(b) and requested that the

bill be read at length as required under article V, section 22 of the Colorado Constitution. The chair of the Committee of the Whole denied Representatives Williams' request. The bill was not read at length despite the fact Representative Williams' request clearly meant that there was not unanimous consent of the members present to dispense with the reading of the bill at length.

21. While HB 1177 was being considered on second reading, Representative Saine exercised her right under the Constitution and Rule 27(b) and requested that the bill be read at length as required under article V, section 22 of the Colorado Constitution. The chair stated that a motion to read the bill at length by Representative Saine "will not be considered," thus depriving Representative Saine of her right under the Constitution and the Rules of the House to require the bill to be read at length. The bill was not read at length. The bill was not read at length despite the fact Representative Saine's request clearly meant that there was not unanimous consent of the members present to dispense with the reading of the bill at length.

22. At no time was the complete text of HB 1177 read at length in the Colorado House of Representatives.

**IV. FIRST CLAIM FOR RELIEF
(Colo. Const. art. V, § 22)**

23. Plaintiffs incorporate and reallege the allegations of the preceding paragraphs.

24. Article V, section 22 of the Colorado Constitution requires that absent unanimous consent of all members present every bill shall be read at length twice in each house of the General Assembly.

25. Representative Williams and Representative Saine withheld their consent to dispensing with the reading of HB 1177 at length at the second reading of HB 1177 in the House of Representatives. As a result it was required to be read at length.

26. At no time was the complete text of HB 1177 read at length in the Colorado House of Representatives.

27. The action of the Colorado House of Representatives of purporting to pass HB 1177 without the bill being read at length violated article V, section 22 of the Colorado Constitution.

**V. SECOND CLAIM FOR RELIEF
(Declaration Concerning Invalid Legislative Procedure)**

28. Plaintiffs incorporate and reallege the allegations of the preceding paragraphs.

29. As set forth above, Representative Williams and Representative Saine have suffered an injury in fact to their legally protected interest of their right to insist upon the reading of HB 1177 at length as required by article V, section 22 of the Constitution.

30. Pursuant to C.R.S. § 13-51-106 and C.R.C.P. 57, Representative Williams and Representative Saine request a determination that the actions of the chair of the Committee of the Whole of the Colorado House of Representatives Colorado House violated the Constitution by depriving them of their right to require HB 1177 to be read at length.

VI. THIRD CLAIM FOR RELIEF (Declaration That HB 1177 is Null and Void)

31. Plaintiffs incorporate and reallege the allegations of the preceding paragraphs.

32. The requirements of Article V, section 22 of the Colorado Constitution are mandatory. If either house fails to abide by the requirements of Article V, section 22 of the Colorado Constitution in enacting a law, the law so enacted is invalid.

33. The Colorado House of Representatives failed to abide by the requirements of Article V, section 22 of the Colorado Constitution in enacting HB 1177.

34. Accordingly, Plaintiffs request the Court to enter a judgment declaring that HB 1177 is null, void and of no effect.

VII. RELIEF REQUESTED

Plaintiffs pray that this Court:

A. Enter a declaratory judgment that Representative Williams' and Representative Saine's rights under Article V, section 22 of the Colorado Constitution to have HB 1177 read at length were violated by the Colorado House of Representatives.

B. Enter a declaratory judgment that HB 1177 was enacted in violation of Article V, section 22 of the Colorado Constitution and is therefore null, void and of no effect.

C. Issue preliminary and permanent injunctions enjoining Defendant Jared S. Polis and any officers, agents, and employees of the State of Colorado from administering or enforcing any provisions of HB 1177.

D. Grant other such relief as the Court deems proper.

Respectfully submitted this 2nd day of May, 2019.

/s/ Barry K. Arrington

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Addresses of Plaintiffs

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