

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MACK ESCHER; GUN OWNERS' ACTION
LEAGUE; COMMONWEALTH SECOND
AMENDMENT; FIREARMS POLICY COALITION,
INC.; SECOND AMENDMENT FOUNDATION;
NATIONAL RIFLE ASSOCIATION OF AMERICA;
and GUN OWNERS OF AMERICA, INC.

Plaintiffs,

v.

COLONEL GEOFFREY NOBLE, in his official
capacity as Superintendent of the Massachusetts State
Police and of the Commonwealth of Massachusetts;
JAMIE GAGNON, in his official capacity as the
Commissioner of the Department of Criminal Justice
Information Services; and HEATH J. ELDREDGE, in
his official capacity as the Chief of Police of Brewster,
Massachusetts,

Defendants.

CIVIL ACTION
No. 1:25-cv-10389-GAO

DEFENDANTS' JOINT REPLY MEMORANDUM IN SUPPORT OF
DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT

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Defendants have shown that the challenged restrictions requiring that individuals must attain the age of 21 to be issued a license to carry a firearm are consistent with the principles underlying our nation’s history of firearms regulation. Plaintiffs’ main response is that Massachusetts state law’s current age of “legal adulthood” is dispositive as to this historical constitutional analysis. But “legal adulthood” is not the neatly delineated constitutional concept that Plaintiffs suggest; “legal adulthood” comprises a range of rights and obligations that are not uniform within or between jurisdictions. Further, Plaintiffs’ position ignores that historical age restrictions relied not simply on the technical status of “minors” but rather on broader concerns about the responsibility and maturity of individuals under the age of 21—concerns that have only been confirmed by modern science. Finally, Plaintiffs’ discussion of Defendants’ historical sources rests on flawed premises about both the historical record and the state of the law. From the Founding era through Reconstruction, it was broadly accepted that individuals under the age of 21 could be restricted in their access to firearms consistent with the Second Amendment.

I. PLAINTIFFS RELY ON AN AHISTORICAL AND AMORPHOUS DEFINITION OF “ADULTHOOD.”

A. “Legal Adulthood” Is a Malleable Concept That Does Not Define Historical Traditions Under the Second Amendment.

Plaintiffs’ central argument is that all “adults” must be treated equally with respect to the Second Amendment, regardless of age. *E.g.*, Dkt. 59 at 6. And Plaintiffs’ definition of “adults” for purposes of the Second Amendment depends, apparently, on whatever age of majority is reflected in a particular state’s own laws generally. As discussed in Defendants’ joint opposition to Plaintiffs’ motion for summary judgment (Dkt. 58 at 8–12), that argument lacks merit for multiple reasons, including that it is an anti-originalist view of the scope of the Second Amendment that is inconsistent with the framework laid out by the Supreme Court in *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1 (2022).

Further, Plaintiffs’ position is flawed because legal “adulthood”—a concept Plaintiffs conjure without establishing its source in constitutional text or structure—is not the clear and consistent constitutional principle that Plaintiffs assume it to be. The “age of majority” is a legislative judgment made by each state, which can vary over time and across jurisdictions. Partially for that reason, the Supreme Court has never concluded that there exists a universal constitutional definition of adulthood that governs across constitutional rights—particularly not one that floats upon the shifting tides of state laws that distinguish between adults and minors. *See, e.g., Planned Parenthood of Cent. Missouri v. Danforth*, 428 U.S. 52, 74 (1976) (rejecting notion that constitutional rights depend on a “state-defined age of majority”). Indeed, for the constitutional rights where the Supreme Court has drawn some line between adults and children, those judgments have been made based on the specific context of the right at issue, not based on some *general* constitutional definition of an “adult.” For instance, when determining the minimum age for the death penalty allowed by the Eighth Amendment, the Supreme Court concluded that age 18 is “the age at which the line *for death eligibility* ought to rest,” without relying on some universal constitutional line between legal “adults” and children. *Roper v. Simmons*, 543 U.S. 551, 574 (2005) (emphasis added).

Because the caselaw does not supply a constitutional definition of legal “adulthood,” Plaintiffs supply their own: “adulthood” purportedly turns on the age of majority under state law, which in Massachusetts is currently 18. Dkt. 59 at 6 (citing, *e.g.*, Mass. Gen. Laws c. 4, § 7; *id.* c. 231, § 85P). But even setting aside questions about that definition’s legitimacy, its vague and inconsistent scope—particularly across jurisdictions—makes it unworkable.

For instance, focusing on Massachusetts alone, even though 18 is the age of majority for most purposes, Massachusetts imposes numerous age-based restrictions on older individuals in a

variety of contexts that “reflect the commonly held view that emerging adults generally are not equipped to assume all the responsibilities of adulthood, especially with respect to high risk activities.” *Commonwealth v. Mattis*, 493 Mass. 216, 232 (2024). For example, like all other states, Massachusetts does not allow the furnishing of alcohol to individuals under 21. Mass. Gen. Laws, c. 138, § 34. Those under 21 may not purchase or be provided with tobacco, nor can they gamble. Mass. Gen. Laws, c. 270, § 6; *id.* c. 23K, §§ 25(h), 43. Individuals under 21 similarly cannot serve as police officers. Mass. Gen. Laws, c. 31, § 58; Mass. Gen. Laws, c. 22C, § 10. And Massachusetts does not allow the mandatory imposition of a sentence of life without parole on individuals who were below 21 at the time of their offense because “the brains of emerging adults are not fully developed and are more similar to those of juveniles than older adults.” *Mattis*, 493 Mass. at 234. The Massachusetts Department of Children and Families can continue to provide services to individuals until the age of 22 as “young adults,” Mass. Gen. Laws c. 119, §§ 21, 23(f), and certain child-support orders can extend to children aged 18-to-22 who live at home, Mass. Gen. Laws c. 208, § 28. Massachusetts also sets certain age-based rights and restrictions *below* the age of 18. A minor can enter into a contract for life insurance starting at age 15 and for car insurance at age 16. Mass. Gen. Laws c. 175, §§ 113K, 128. Starting at age 12, a minor can consent to medical care related to substance abuse without parental permission. Mass. Gen. Laws c. 112, § 12E.

Moreover, other states have their own sets of minimum-age laws that vary from Massachusetts’s and from each other. *See, e.g., Snow v. Waffle House, Inc.*, No. CV 06-0321-CB-C, 2006 WL 8437952, at *2 & n.4 (S.D. Ala. Dec. 5, 2006) (observing that, for purposes of the legal ability to enter contracts, “the age of majority in Alabama is 19 years,” while “[t]he age of majority in Florida is 18”); *Heflin v. Harrison Cnty. Adult Det. Ctr.*, No. 1:18CV212-LG-RHW, 2018 WL 4572672, at *2 (S.D. Miss. Sept. 24, 2018) (observing that, in Mississippi, the age of

majority is 21 years); *compare, e.g.*, Kan. Stat. Ann. § 38-2347 (requiring that a criminal defendant be at least “14 years of age” to be “prosecuted as an adult” in Kansas), *with* Del. Code Ann. tit. 10, § 1010 (allowing for prosecution as an adult in Delaware only if defendant is at least 16 years old).

Despite this broad range of age-based legislative and judicial judgments, Plaintiffs do not explain which combination of rights, restrictions, or obligations would add up to a sufficient level of “adulthood” such that a state is not permitted to impose age-based restrictions on those individuals’ firearms access. Nor do Plaintiffs explain whether the age-based scope of Second Amendment rights moves forward and back, and varies across jurisdictions, based on a particular state’s age of majority at any moment in time. *See Nat’l Rifle Ass’n v. Bondi*, 133 F.4th 1108, 1125 (11th Cir. 2025) (“The dissent fails to define its category of ‘adults’ for federal constitutional purposes[.] . . . Taken to its logical end, the dissent’s position would mean that the federal right to keep and bear arms turns on a sliding scale defined by contemporary state law that varies from jurisdiction to jurisdiction.”). By contrast, Defendants’ position that states *may*—but by no means must—restrict firearms access to individuals under 21 is historically grounded, clearly defined, and consistent with the analytical framework laid out in *Bruen* and *Rahimi*.

B. The Historical Laws Respond to the Same “Why” Related to Impulsivity and Lack of Responsible Decision Making as the Modern Regulations.

Moreover, Plaintiffs’ central premise that historical restrictions on individuals below the age of 21 have no relevance to “legal adults” today because those historical regulations used the term “minors” ignores the historical throughline of “why” such restrictions have existed throughout our Nation’s history—because those under the age of 21 are prone to impulsive action and irresponsible decision making. This commonsense justification was understood intuitively by the Founding generation. As explained by the Eleventh Circuit *en banc*: “The Founders’ generation shared the view that minors lacked the reason and judgment necessary to be trusted with legal

rights.” *Bondi*, 133 F.4th at 1117. Thomas Jefferson “considered ‘infants’ akin to ‘maniacs,’ ‘drunkards,’ and others who ‘cannot take care of themselves,’” while John Adams wrote that minors lacked “[j]udgment” and “[w]ill.” *Id.*¹

Today, research has confirmed scientifically what the Founding era knew by experience: that the brains of individuals in their late teens and early 20s share more in common with younger teenagers than with older adults. *See generally* Cauffman (Dkt. 41-9). While Massachusetts lawmakers may have chosen to lower the age of majority for certain purposes, in other areas where the dangers associated with impulsive decision making are particularly acute—such as consumption of alcohol or gambling—the minimum age is 21. Consistent with historical traditions limiting the unfettered access of those under the age of 21 to firearms, Massachusetts continues to provide guardrails around the use of firearms for those under 21. Legislative history shows that lawmakers were concerned about misuse of firearms by those under 21—whether endangering themselves or others—when enacting the legislation challenged in this action. *See, e.g.*, 193d Gen. Ct., Formal House Session No. 93 (<https://malegislature.gov/Events/Sessions/Detail/4504>), at 41:48 (Mass. Oct. 18, 2023) (statement of Rep. Day) (listing shootings and victims in support of predecessor bill); 59:37 (statement of Rep. Carlos Gonzalez) (noting while considering predecessor bill that “the children . . . are also falling victim to . . . suicide”); 2:16:40 (statement

¹ Contrary to Plaintiffs’ suggestion, the same analysis would not apply to modern firearms restrictions on married women due to other constitutional protections. Dkt. 59 at 7-8. The Equal Protection Clause of the Fourteenth Amendment subjects gender-based distinctions to intermediate scrutiny, *e.g.*, *Massachusetts v. U.S. Dep’t of Health & Hum. Servs.*, 682 F.3d 1, 9 (1st Cir. 2012), and it is hard to imagine that gender-based differential access to firearms would survive that form of heightened scrutiny. Age-based restrictions, by contrast, are only subject to rational basis review under that clause. *Kimel v. Fla. Bd. of Regents*, 528 U.S. 62, 83–84 (2000). As noted by the State Defendants’ expert, this reflects in part that the women’s rights movement succeeded in overturning the legal doctrine of the “femme covert” over the course of the nineteenth century, but that “no similar effort to transform the rights of minors emerged.” Dkt. 41-3 (Cornell) ¶ 27.

of Rep. Steven Owens) (remarking on school shootings in Sandy Hook, Parkland, and Uvalde in support of predecessor bill).

II. PLAINTIFFS' HISTORICAL ANALYSIS IS FLAWED AND CONTRARY TO THE EVIDENTIARY RECORD.

A. Founding-Era Legal Traditions Support the Modern Regulations.

As presented in the State Defendants' memorandum in support of their motion for summary judgment (Dkt. 40 at 7–13) and discussed further in Defendants' joint opposition to Plaintiffs' motion for summary judgment (Dkt. 58 at 2–13), multiple Founding-era legal regimes form a relevantly similar tradition supporting the modern regulations. Plaintiffs' responses are unsupported by the historical record.

To start, Defendants have pointed to widespread common law restrictions during the Founding that prevented individuals under the age of 21 from forming enforceable contracts in a cash-poor economy and so functionally barred them from acquiring firearms. Dkt. 40 at 7–10; Dkt. 58 at 3–8. Defendants have put forth expert testimony that “[g]un ownership by men aged 18-21 . . . would have been rare” during the Founding era, Dkt. 41-4 (Brewer) ¶ 50, and that “it would have been almost impossible for an 18-20 year[-old] to acquire firearms without the assistance of a parent or guardian,” Dkt. 41-3 (Cornell) ¶ 36.

As to whether firearms were routinely—or indeed ever—considered “necessaries” and so subject to an exception from the contract voidability rule, Plaintiffs rely on pure speculation based on the role of firearms in Founding-era society in general. Dkt. 59 at 10–12. Plaintiffs argue that firearms were “*undoubtedly* necessary for many 18-to-20-year-olds at the Founding” and yet cannot point to a single example where a firearm was so classified. *Id.* By contrast, Defendants rely on the informed opinion of historical experts that the “enumerated list of necessities clearly excluded firearms,” Dkt. 41-3 (Cornell) ¶ 33, and “there is no evidence in legal records of the time

to suggest that a firearm might have been considered a necessary,” Dkt. 41-4 (Brewer) ¶ 29; *see also* Dkt. 58 at 7. Additionally, both the Fourth and Eleventh Circuits have credited this historical evidence in upholding age-based firearms restrictions. *Bondi*, 133 F.4th at 1117–18; *McCoy v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 140 F.4th 568, 575–76 (4th Cir. 2025), *cert. petition pending* (25-24).

Plaintiffs argue that the cases of *Saunders Glover & Co. v. Ott’s Adm’r*, 12 S.C.L. 572 (1 McCord) (S.C. Const. App. 1822), and *McKanna v. Merry*, 61 Ill. 177 (1871), do not support Defendants’ position, but they are mistaken. Dkt. 59 at 12–13. To the extent those cases “dealt only with pistols” and so distinguished one type of firearm from another, the same is true of the modern Massachusetts law—it limits access to only certain types of firearms and only in certain ways. *See, e.g.*, Dkt. 40 at 2–3 (describing current Massachusetts law).

Plaintiffs also assert *Saunders Glover* and *McKanna* stood only for the proposition that pistols were not necessities under the facts of those cases. But even if that were true, Defendants need not show that *all* individuals under 21 were in *all* circumstances forbidden from acquiring *all* firearms in order to establish that jurisdictions *may* impose age-based restrictions consistent with historical tradition. Not only do Plaintiffs demand a historical twin, but they demand uniform historical twins across all historical periods and all jurisdictions. In effect, Plaintiffs appear to argue that, in order for Massachusetts to be able to place *any* restrictions on individuals under 21 today, there must have been a total and complete prohibition on firearms use for those under 21 starting at the Founding. That is simply not the law. In *Rahimi*, the Supreme Court overturned a decision of the Fifth Circuit after it made the “error” of reading *Bruen* to require “a ‘historical twin’ rather than a ‘historical analogue.’” *United States v. Rahimi*, 602 U.S. 680, 701 (2024). Plaintiffs would have this Court repeat that same error and reject each historical analogue in

isolation. Instead, if this Court assesses all of Defendants’ sources, “taken together,” *id.* at 698, it will find an unbroken tradition since the Founding and extending through Reconstruction supporting the principle that jurisdictions may restrict the unsupervised access of individuals under the age of 21 to firearms.

Defendants’ historical presentation does not require that no minor was ever able to acquire a firearm during the Founding era. Instead, the significance of the infancy doctrine is at least two-fold: first, it shows that significant restrictions on the ability of those under 21 to acquire firearms were accepted at the Founding era as perfectly consistent with Second Amendment protections; and second, it explains why Founding-era governments had little reason to impose firearm-specific age restrictions, where the common law was functionally preventing any widespread social issue related to the misuse of firearms by those under 21. The university regulations discussed in Defendants’ prior briefing underline the same principles. Dkt. 40 at 12–13. Plaintiffs’ attempt to show that perhaps *some* minors could have acquired *some* firearms under the necessities exception—which relies only on speculation and not any historical support—would not undermine these underlying historical principles, even if true in isolated cases.

And Founding-era militia laws—far from supporting Plaintiffs’ theory that anyone over 18 has an unassailable right to purchase and possess any firearm—confirm that individuals under the age of 21 were not expected to be able to equip themselves during the Founding era, as discussed in Defendants’ prior briefing. *See* Dkt. 40 at 10–12; Dkt. 58 at 12–13. Plaintiffs argue that the militia laws nonetheless “*require[d]* 18-to-20-year-olds to possess firearms,” while Massachusetts law today “bans possession.” Dkt. 59 at 15. However, this is misleading as to both the historical and modern record. Historically, “minors had a role primarily as military trainees, to serve as necessary if called to the public defense,” but “[t]he laws did not contemplate minors having

unrestricted access to firearms outside of the militia context.” Dkt. 41-4 (Brewer) ¶ 48; *see also id.* ¶ 35 (“It was nowhere expected that the young man himself owned the weapon.”). And under current Massachusetts law, individuals under 21 are similarly permitted to train with any legal firearm while under appropriate supervision, Mass. Gen. Laws c. 140, §§ 129B(c), 129C(g), and are exempt from the challenged provisions while acting in the performance of military service, Mass. Gen. Laws c. 140, § 129C(f). Thus, the current Massachusetts regime shares many of the same relevant features of the historical militia laws.

B. Reconstruction-Era Legal Traditions Support the Modern Regulations.

Contrary to Plaintiffs’ suggestion, the First Circuit law has properly relied on nineteenth- and even twentieth-century history to uphold modern firearms regulations. *See* Dkt. 58 at 13–14. As the First Circuit has noted, rejection of later historical analogues necessarily presumes that those analogues are themselves unconstitutional. *Ocean State Tactical, LLC v. Rhode Island*, 95 F.4th 38, 51–52 (1st Cir. 2024), *cert. denied*, 145 S. Ct. 2771 (2025). As in *Ocean State Tactical*, however, “not even plaintiffs claim that those laws are invalid.” *Id.* There is therefore “no reason why those same laws cannot provide insight as apt historical precursors.” *Id.*

As described in the State Defendants’ memorandum in support of their motion for summary judgment (Dkt. 40 at 13–20) and discussed further in Defendants’ joint opposition to Plaintiffs’ motion for summary judgment (Dkt. 58 at 13–17), Reconstruction-era laws are uniquely probative here given the dramatic technological, social, and economic changes that converged to create, for the first time, a widespread concern in the mid- to late-1800s about the misuse of dangerous weapons by young adults who experienced a previously unknown level of independence.

Plaintiffs argue that the nineteenth-century laws “undermine” Defendants’ discussion of the Founding-era infancy doctrine, but that is not the case. Dkt. 59 at 24. As described by Defendants’ experts, while the infancy doctrine did continue into the nineteenth century, its

practical effects became less pronounced as minors gained a newfound ability to work for—and keep—cash wages. Dkt. 41-8 (Rivas) at ¶ 31 (“[T]he expansion of a consumer-oriented, transactional economy provided more opportunities to acquire firearms . . .”). This, together with the new accessibility of more lethal but also more concealable firearms, prompted legislation to target particularly dangerous misuse of weapons by minors, still defined at that time to include anyone under 21. *Id.* ¶¶ 32–40.

That these regimes did not always entirely replace the prior common law restrictions is unremarkable and does not undermine Defendants’ historical analysis. Plaintiffs argue that because some of the laws set age limits lower than 21 or prohibited only certain classes of weapons, that means they were not “reinstating or reaffirming earlier prohibitions on the purchase of firearms based on age.” Dkt. 59 at 19. But just because a state *may* impose more fulsome restrictions does not mean it *must* do so. Instead, nineteenth-century legislatures—like Massachusetts and other states today—tailored their response to the new challenge of armed young adults based on local needs and preferences. Some jurisdictions targeted possession, while others focused on sales. Some jurisdictions set higher or lower ages for restrictions. Like Massachusetts does today in allowing for the sale and possession of non-semiautomatic rifles and shotguns, historic laws often targeted particularly dangerous weapons while leaving other options available. This type of local variation, all within permissible constitutional limits, is the essence of our federal system.

III. CONCLUSION

Defendants respectfully request that this Court grant the State Defendants’ motion for summary judgment (Dkt. 39) and Chief Eldredge’s motion for summary judgment (Dkt. 53), deny Plaintiffs’ motion for summary judgment (Dkt. 43), and enter judgment in favor of Defendants.

Respectfully submitted,

COLONEL NOBLE and
COMMISSIONER GAGNON,

By their attorneys

ANDREA JOY CAMPBELL

/s/ Grace Gohlke

Grace Gohlke, BBO #704218
Aaron Macris, BBO #696323
Assistant Attorney General
Office of the Attorney General
Government Bureau
Constitutional and Administrative Law Div.
One Ashburton Place
Boston, MA 02108
(617) 963-2527
grace.gohlke@mass.gov
(617) 963-2987
aaron.macris@mass.gov

CHIEF ELDREDGE,

By his attorneys,

/s/ Joseph A. Mongiardo

Douglas I. Louison (BBO# 545191)
Joseph A. Mongiardo (BBO# 710670)
Louison, Costello, Condon & Pfaff, LLP
Ten Post Office Square, Suite 1330
Boston, MA 02109
dlouison@lccplaw.com
jmongiardo@lccplaw.com

January 23, 2026

CERTIFICATE OF SERVICE

I, Grace Gohlke, hereby certify that, on January 23, 2026, a true and accurate copy of this Memorandum in Opposition was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) to:

Jason A. Guida
Law Office of Jason A. Guida
17 Lark Avenue
Saugus, MA 01906
jason@lawguida.com

David H. Thompson
Peter A. Patterson
William V. Bergstrom
Cooper & Kirk, PLLC
1523 New Hampshire Ave., N.W.
Washington, D.C. 20036
dthompson@cooperkirk.com
ppatterson@cooperkirk.com
wbergstrom@cooperkirk.com

Counsel for the Plaintiffs

/s/ Grace Gohlke
Grace Gohlke, BBO #704218
Assistant Attorney General