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On Behalf Of:  
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Measure, Appointment or Topic: HB4145

1. Direct burden on a fundamental right

The Second Amendment protects an individual right to keep and bear arms (*District of Columbia v. Heller*, 554 U.S. 570 (2008)), incorporated against the states (*McDonald v. City of Chicago*, 561 U.S. 742 (2010)). A mandatory waiting/permit delay that effectively prevents law-abiding persons from acquiring a firearm for a fixed, extended period imposes a concrete, temporal deprivation of that right. When a law functionally suspends access to arms for a significant period, it is more than a minimal regulatory inconvenience — it is a substantial burden on the core right recognized in *Heller*.

2. Bruen’s historical-tradition test forbids novel, burdensome regulations

Newer controlling precedent requires that firearm regulations be consistent with the Nation’s historical tradition of firearm regulation (*New York State Rifle & Pistol Association v. Bruen*, 597 U.S. \_\_\_\_ (2022)). Under *Bruen*, the government must identify historical analogues that justify modern regulations that meaningfully burden the right. A compulsory 60-day delay on lawful purchases is a modern administrative mechanism for depriving citizens of immediate access; there is no clear historical tradition of subjecting law-abiding persons to prolonged, categorical suspensions of the right to acquire arms while awaiting administrative approval. Absent a close historical analogue, the law fails *Bruen*’s test.

3. Prior-restraint analogy and the need for prompt process

A statutory waiting period that holds up a constitutionally protected activity for an extended fixed term resembles a prior restraint. Courts have required prompt, definite procedures where government action impedes constitutional rights. A 60-day mandatory delay — particularly if it is not demonstrably tailored to an individualized safety risk or accompanied by expedited review for those who can show need — is not a narrowly tailored prevention measure but a broad suspension that may be unconstitutional.

4. Disproportionate, non-tailored means to legitimate ends

Even accepting public safety as a legitimate objective, constitutional review demands that the means be appropriately tailored. A blanket doubling of the waiting period treats low-risk, law-abiding purchasers the same as those who might require urgent investigation, creating an overbroad restriction that implicates both the Second Amendment and potentially due-process concerns. If the state cannot show that shorter periods are insufficient and that no less-restrictive alternatives (e.g., faster background checks, targeted investigations, risk-based exceptions) are feasible, the

statute is vulnerable.

#### 5. Practical constitutional effects

Beyond doctrinal tests, a 60-day mandated delay may effectively deny access in time-sensitive circumstances (self-defense needs, imminent threats, or transferred sales). Where the right is essential to personal security, extended administrative delays can transform a right in theory into a hollow right in practice — an outcome at odds with Heller’s protection of the core right of self-defense in the home.

#### Conclusion

Under Heller, McDonald, and especially Bruen, a law that imposes a categorical, extended waiting period on lawful firearm acquisition is constitutionally suspect. Because HB 4145 places a substantial temporal barrier on the exercise of a fundamental right, lacks clear historical analogue justifying such a burden, and is not narrowly tailored to serve its safety goals, it is susceptible to successful constitutional challenge.