Virginia:

In the Circuit Court of the City of Richmond, John Marshall Courts Building

COMMONWEALTH OF VIRGINIA,
Plaintiff,

v. **Case No. CR26M-357**

JAMONTE K. HUGGINS,
Defendant.

OPINION AND ORDER

On March 6, 2026 came the Commonwealth, by counsel,[1] and the Defendant, by and with counsel,[2] for a hearing on the Defendant's "Motion to Declare Code § 18.2-287.4 Unconstitutional." The Defendant presented argument on his written Motion. The Commonwealth filed a written response,[3] and presented argument. After due consideration of the parties' filings and arguments thereon,[4] the Court **DECIDES** as follows.

ISSUE PRESENTED

The Defendant stands charged with one count of possession of a high-capacity magazine, in violation of Virginia Code § 18.2-287.4 (CR26M-357). This matter is on appeal from the City of Richmond General District Court (Case No. GC25030542) for a determination of constitutionality.[5] The issue presently before the Court is whether Virginia Code § 18.2-287.4 violates the prohibition against a local or special law pursuant to Article IV, § 14 of the Virginia Constitution, and whether it is thus unconstitutional. The Defendant challenges the statute under

[1] Patrick W. Dorgan, Esq., represented the Commonwealth.
[2] Gianna Feinberg, Esq., represented the Defendant Jamonte K. Huggins. Brian T. Warren, Esq., represented Defendant Kevin L. Gates and presented arguments on behalf of both Defendants.
[3] The Commonwealth's "Response to Defendant's Motion to Dismiss Due to Facial Unconstitutionality of Virginia Code §18.2-287.4," filed on November 30, 2023.
[4] Oral arguments made in the matter of Kevin L. Gates, Case Nos. CR25F-3174, CR25M-3175, and CR2RM-3176, were adopted for Defendant Jamonte K. Huggins's "Motion to Declare Code § 18.2-287.4 Unconstitutional."
[5] Order, (Feb. 4, 2026).

the special laws' prohibition test provided by *Benderson Dev. Co. v. Sciortino*, 236 Va. 136, 147 (1988). See also *Mandell v. Haddon*, 202 Va. 979, 991 (1961).

The Defendant asserts that he has standing to challenge § 18.2-287.4 as a special law for criminalizing the conduct of carrying a semi-automatic rifle, pistol, or a shotgun with a magazine with seven or more rounds arbitrarily, in public in the Cities of Alexandria, Chesapeake, Fairfax, Falls Church, Newport News, Norfolk, Richmond, or Virginia Beach or in the Counties of Arlington, Fairfax, Henrico, Loudoun, or Prince William. Va. Code Ann. § 18.2-287.4. The Defendant further argues that the challenged statute does not bear a reasonable and substantial relationship to the object of the legislation, to promote gun safety.[6]

The Commonwealth responded in their briefings, disputing the unconstitutionality of Virginia Code § 18.2-287.4 under both an Article IV, § 14 and Article VII, § 2 analysis.[7] During arguments, the Commonwealth conceded this analysis and instead argued that the statute passed the *Benderson* special law test by having a sufficient and reasonable justification for its legislative goal. *Benderson Dev. Co. v. Sciortino*, at 148.

LAW AND DISCUSSION

There is a presumption that every action of the legislature is presumed to be constitutional. *Peery v. Board of Funeral Directors*, 203 Va. 161 (1961); *Dean v. Paolicelli*, 194 Va. 219 (1952); *Ex parte Settle*, 114 Va. 715 (1913). The burden to prove the unconstitutionality rests upon the person who assails the enactment to prove that it is unconstitutional. *Peery*, at 165. *Riddleberger v. Chesapeake W. Ry.*, 229 Va. 213, 215 (1985). "As a general rule, a defendant has standing to

[6] See Def.'s "Mot. to Declare Code § 18.2-287.4 Unconstitutional," (Feb. 2, 2026).
[7] See Commonwealth's "Resp. to Def.'s Mot. to Declare Code § 18.2-287.4 Unconstitutional," (Mar. 2, 2026).

challenge the constitutionality of a penal statute…when the language of the statute as applied to his conduct is impermissibly vague." *Stanley v. Norfolk*, 218 Va. 504, 505 (1977). See also *United States v. Raines*, 362 U.S. 17, 20-22 (1960). A defendant can establish standing to challenge a statute by claiming due process overbreadth, which "result[s] from statutory language so vague that it could be selectively construed and enforced by police, prosecutors, and triers-of-fact to penalize persons not before the court, for conduct not before the court, without fair warning of the criminality of their conduct." *Gooding v. Wilson*, 405 U.S. 518, 520-22 (1972).

I. Article IV, § 14 and Special Laws

The relevant text of Article IV, § 14 of the Virginia Constitution reads as follows: "The General Assembly shall not enact any local, special, or private law in the following cases: (1) For the punishment of crime…" Va. Const. art. IV, § 14. The Virginia Supreme Court in *Benderson Dev. Co., v. Sciortino*, stated that the "the pervading philosophy of Article IV, sections 14…reflects an effort to avoid favoritism, discrimination, and inequalities in the application of the laws." 236 Va. 136, 147 (1988) (quotes I A.E. Dick Howard, Commentaries on the Constitution of Virginia 549 (1974)).

A special law exists when "by force of an inherent limitation [the law] arbitrarily separates some persons, places or things from those upon which, but for such separation, it would operate." *Gandy v. Elizabeth City Cnty.*, 179 Va. 340, 345 (1942). Article IV, § 14 restricts special laws to "check upon the intentional exercise of legislative power conferring special privileges and immunities, or special restrictions and burdens, upon particular persons … to the exclusion of other persons … similarly situated." *Martin's Ex'rs v. Commonwealth*, 126 Va. 603, 611 (1920).

To differentiate between a special and general law, the Court must inquire "whether any appropriate subject is excluded to which the law, but for its limitations, would apply. If the only limitation contained in a law is a legislative classification of its objects, it is a general law." *Martin's Ex'rs v. Commonwealth*, 126 Va. at 612. A law can be general even if it may apply to a class, albeit a small one, "provided the classification itself be a reasonable and not an arbitrary one, and the law be made to apply to all of the persons belonging to the class without distinction." *Riddleberger v. Chesapeake W. Ry.*, 229 Va. at 216-217. For these classifications to be permissible, "[t]here must be some such difference in the situation of the subjects of the different classes as to reasonably justify some variety of rule in respect thereto." *Martin's Ex'rs*, 126 Va. at 612. The case of *Benderson Dev. Co. v. Sciortino* offers a test to determine the status of a law as special.

1) Does the law "affect[] all persons similarly situated or engaged in the same business throughout the state without discrimination[?]"
    i. Is the exclusion appropriate to the object it excludes?
2) If the law results in a disparate impact, does the statute, "as applied, bear[] a reasonable and substantial relationship to the object sought to be accomplished by the legislation[?]"

236 Va. at 149 (quoting *Mandell v. Haddon*, 202 Va. at 991); *Gandy v. Elizabeth City Cnty.*, 179 Va. at 345; *Martin Ex'rs v. Commonwealth*, 126 Va. at 611.

If a law is fairly challenged as a special law, the Court must examine whether there is an "arbitrary separation" present, along with the law's purported purpose, "as well as the circumstances and conditions existing at the time of its passage." *County Board of Sup'rs v. American Trailer Co.*, 193 Va. 72, 79 (1951). "There is a strong presumption in favor of the reasonableness of legislative classifications, and if any state of facts can be reasonably conceived which would support them, the existence of that state of facts at the time of passage must be assumed." *Benderson Dev. Co.*, at 141. Further, the Court must inspect the text of the statute, not

the legislators' intent or extrinsic evidence to determine whether a law is a special law. *Peery*, at 165 (rejecting testimony offered to prove the legislator's intent when the law was enacted as "purely hearsay, immaterial, incompetent, and inadmissible").

The Supreme Court has held that there is no conflict between Article IV, § 14, and Article VII, § 2,[8] and that the two sections can be read together "when each is given its proper field of operation..." *Pierce v. Dennis*, 205 Va. 478, 485 (1964) (internal quotation marks omitted); *City of Portsmouth v. Weiss*, 145 Va. 94 (1926) (in which the Court held that Article IV, §14 can be read in conjunction with other constitutional provisions, such Article VII, § 2).[9] A special act will be valid when enacted "for the organization, government, and powers of any county, city, town, or regional government, including such powers of legislation, taxation, and assessment." Va. Const. art. VII, § 2. In the absence of evidence to the contrary, "there is a *prima facie* presumption that the charter or an amendment thereof was enacted in the manner required by the Constitution, and that the rights and powers conferred are within the legislative power to grant." *Ransone v. Craft*, 161 Va. 332, 341 (1933).

Both Article IV, § 14 of the Virginia Constitution and the federal Equal Protections Clause pertain to legislative classifications. *Benderson Dev. Co.*, at 146. While often brought together, the two clauses can be differentiated in application. The Court of Appeals has stated that "[t]he prohibitions against 'special, private, or local law' found in Article IV, §§ 14-15, of the Virginia Constitution track the minimum rationality requirements employed by longstanding due process

[8] Article VII, § 2 states that the Virginia General Assembly "shall provide by general law for the organization, government, powers, change of boundaries, consolidation, and dissolution of counties, cities, towns, and regional governments." Va. Const. art. VII, § 2. The General Assembly may also enact special acts but only "for the organization, government, and powers of any county, city, town, or regional government, including such powers of legislation, taxation, and assessment as the General Assembly may determine." *Id.*

[9] *See generally* 1 Virginia Constitutional Law § 13.03.

and equal protection doctrines." *Laurels of Bon Air, LLC v. Med. Facilities of Am. LIV Ltd.*, 51 Va. App. 583, 597 (2008). However, each utilizes different tests and rest on distinctive conceptual foundations. The Equal Protections Clause was first developed in case law against discrimination and has "been markedly deferential to state laws which make economic classifications." *Benderson Dev. Co.*, at 146. Conversely, the prohibition of special laws is targeted toward "economic favoritism." *Id.* The case presently before the Court was not challenged on Equal Protections grounds, and does not involve economic classifications, but instead centers on a geographical classification that affects criminal punishment. The Court deems it important to differentiate these tests and the language invocative of each analysis.

II. Analysis of Virginia Code § 18.2-287.4

The relevant text of Virginia Code § 18.2-287.4 states:

> It shall be unlawful for any person to carry a loaded (a) semi-automatic center-fire rifle or pistol that expels single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine that will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock or (b) shotgun with a magazine that will hold more than seven rounds of the longest ammunition for which it is chambered on or about his person on any public street, road, alley, sidewalk, public right-of-way, or in any public park or any other place of whatever nature that is open to the public in the Cities of Alexandria, Chesapeake, Fairfax, Falls Church, Newport News, Norfolk, Richmond, or Virginia Beach or in the Counties of Arlington, Fairfax, Henrico, Loudoun, or Prince William.

Va. Code Ann. § 18.2-287.4. This statute was amended by the General Assembly in 2007. Prior to 2007, the statute read as such:

> In 2007, the statute applied the proscription to (i) any city with a population of 160,000 or more or (ii) in any county having an urban county executive form of government thereby or adjacent thereto or in any county having a county manager form of government.

2006 Va. HB 2928.

The Defendant stands charged with one count in violation of Virginia Code § 18.2-287.4. He faces up to twelve (12) months incarceration, and a fine of $2,500 for the charge. Finding that the Defendant is charged with § 18.2-287.4, and that he challenges the statute as-applied to him for its vagueness, the Court **FINDS** that the Defendant has standing to challenge Virginia Code § 18.2-287.4.

The Commonwealth provided that an Article IV, § 14 and an Article VII, § 2 joint-analysis would be appropriate to apply to Virginia Code § 18.2-287.4. As the Supreme Court has provided, the two sections can be read together. *Pierce*, 205 Va. at 485. Under this joint analysis, the Court must determine whether a special act, such as § 18.2-287.4, was enacted "for the organization, government, and powers of any county, city, town, or regional government, including such powers of legislation, taxation, and assessment." The text of § 18.2-287.4 lacks any language granting the localities the power to prosecute the conduct described therein. The language of § 18.2-287.4 is that of a state criminal statute, that only applies to the listed localities, not a specific grant of power as is allowable under Article VII, § 2. Moreover, this statute does not relate to the subjects listed in Article VII, § 2, those being the powers of legislation, taxation, and assessment. Even if § 18.2-287.4 was considered as a grant of power to these specific localities related to their legislative power, localities pursuant to Virginia Code § 15.2-915(A), cannot adopt any such ordinance, resolution, or motion relating to firearms without express authorization. This is notably absent in § 18.2-287.4.[10] As previously stated, Article IV, § 14 and Article VII, Section § 2 can be read together, however, only when relevant. *Id.* Provided that the Commonwealth waived the application of this joint analysis in oral arguments, and as determined by the Court, Article VII, § 2 is not applicable to Virginia Code 18.2-287.4.

[10] See generally *Fallon Florist, Inc. v. Roanoke*, 190 Va. 564 (1950).

The Court must test Virginia Code § 18.2-287.4 by applying the *Benderson* special law test. The Court must first analyze if the law affects all persons similarly situated or engaged in the same business throughout the state without discrimination. *Benderson Dev. Co. v. Sciortino*, 236 Va. at 149.

The Supreme Court has spoken on challenges of special laws, and provided that a statute is not unconstitutional merely because it applies to a certain territorial district. As long as the law,

> applies to all districts and all persons who are similarly situated, and to all parts of the State where like conditions exist. Laws may be made to apply to a class only, and that class may be in point of fact a small one, provided the classification itself be a reasonable and not an arbitrary one, and the law be made to apply to all of the persons belonging to the class without distinction.

Ex parte Settle, 114 Va. at 718-19.

In the case of *Ex parte Settle*, the challenged statute granted a judge of the circuit court discretion in appointing a trial justice, in counties of a population over three hundred (300) persons per square mile. The Court found the law constitutional because there was a substantial and reasonable relationship between population density and the purpose of the statute. *Id.*

In *Martin's Ex'rs v. Commonwealth*, a clerk was subject to be compensated for an estate. 126 Va. 603 (1920). The act in question, the West fee bill, fixed the maximum compensation for city and county official according to their population. It was challenged as a special act for its classification based on population, which was based on 1910 Census data, and the act's lack of a provision in the case the population changed. The Court held the law constitutional because the act was "germane to the purpose of the law, [was] fair and just, and at the time of its enactment operate[d] uniformly and extend[ed] in its operation to each of the counties." *Id.* at 606.

In contrast, the case of *Riddleberger* involved a statute that assigned mineral rights based on population and geography. The Court found, that upon reviewing the Census data, the

population of counties in the statute as opposed to the population of the counties excluded, was "without rhyme or reason. The provisions complained of do not apply to all counties similarly situated." 229 Va. at 221. They further found that the statute was "merely a circuitous and disingenuous means of designating and providing local legislation. The so-called classifications are not classifications at all." *Id.*

Similarly to *Riddleberger*, in the case of *County Bd. of Sup'rs v. Am. Trailer Co.*, the Supreme Court found a statute to be a special law, and therefore unconstitutional. 193 Va. at 72. The statute at issue prohibited the operation of a trailer park "in any country adjoining any county in this state having a density of population in excess of one thousand per square mile: unless certain terms were met." *Id.* at 78. Upon analysis, this statute was only applicable to Fairfax County. The Court could not find a substantial and reasonable relationship for Fairfax County being the only municipality within the statute's objective when there were other densely populated areas that could have been included but were not. *Id.* at 81.

These cases, amongst others,[11] provide guidance to the Court involving statutes that create classifications between certain populations and geographic areas. These classifications can be permissible, however, "[t]here must be some such difference in the situation of the subjects of the different classes as to reasonably justify some variety of rule in respect thereto." As the above cases have shown, if the legislation lacks a reasonable and substantial relationship to the objective of the law, then it will be deemed to be special and therefore unconstitutional.

[11] The Virginia Supreme Court has invalidated special laws in the following cases: *Benderson Dev. Co. v. Sciortino*, 236 Va. 136 (1988); *Riddleberger v. Chesapeake Railway*, 229 Va. 213 (1985); *Commonwealth v. Hines*, 221 Va. 626 (1980); *Green v. County Board*, 193 Va. 284 (1952); *County Bd. of Sup'rs. v. Am. Trailer Co.*, 193 Va. 72 (1951); *Shulman Company v. Sawyer*, 167 Va. 386 (1937); *Quesinberry v. Hull*, 159 Va. 270 (1932); *McClintock v. Richlands Corp.*, 152 Va. 1 (1928); *Shelton v. Sydnor*, 126 Va. 625 (1920).

When analyzing a challenged statute like § 18.2-287.4, the Court must look to the "the existence of that state of facts at the time of passage." Virginia Code § 18.2-287.4 was first passed and subsequently amended to include the named cities and counties in 2007. A law can become special due to subsequent amendment. *Benderson Dev. Co.*, 236 Va. at 150. Accordingly, the state of facts in 2007, when the amendment was enacted, can be analyzed "if any state of facts can be reasonably conceived which would support [the legislative classification]." The Defense cites the 2020 Census data, whereas the Commonwealth cites to 2000 Census data. The Commonwealth conceded this issue and used 2020 Census data in oral arguments. Accordingly, the Court will analyze Virginia Code § 18.2-287.4 under the population data presented before it and take judicial notice of this data.[12]

Virginia Code § 18.2-287.4 does not "affect all persons similarly situated or engaged in the same business throughout the state without discrimination." *Benderson Dev. Co.*, 236 Va. at 150. As it reads presently, the statute criminalizes the conduct of carrying a dangerous weapon and ammunition in eight (8) cities and five (5) counties. These select cities and counties are not alike in location, geography, population, population density, in quality (whether urban or rural), or in proximity. A citizen can be penalized for carrying a dangerous weapon in Richmond and Henrico, but not in Chesterfield, which borders both jurisdictions. Another citizen can be penalized in Chesapeake, Newport News, Norfolk, and Virginia Beach, but not in Portsmouth or Hampton, which are adjacent to these eastern cities and counties. Further, this classification is not appropriate to the object it excludes. *Gandy v. Elizabeth City Cnty.*, 179 Va. at 345. There are thirty (30) cities and ninety (90) counties excluded by this act, of these are particularly densely populated areas and

[12] "The courts seem to be generally agreed that judicial notice will be taken of the population of counties, cities and towns as shown by United States census." *Shelton v. Sydnor*, 126 Va. 625, 638 (1920).

high-crime locations that can benefit from being included in this statute. Throughout Virginia's regions, the statute chooses locations, seemingly at random. Even in a given area, such as the Tidewater region, the statute includes Chesapeake, Newport News, Norfolk and Virginia Beach but inexplicably excludes Portsmouth and Hampton. Additionally, the statute excludes cities and counties in the south and west areas of the Commonwealth.

Lastly, the Court must inquire if there is a disparate impact, whether Virginia Code § 18.2-287.4, "as applied, bears a reasonable and substantial relationship to the object sought to be accomplished by the legislation." *Martin's Ex'rs*, 126 Va. at 611. The disparate impact, the "actual effect" of the "arbitrary separation" before the Court, is identified by the Defense as the inconsistency of the application of punishment throughout Virginia. The Commonwealth argued that Virginia Code § 18.2-287.4 provides notice to citizens. Instead, it has led to a law being selectively enforced by law enforcement and the prosecution, and thus, an irregularity of punishment in the Commonwealth.

The Commonwealth maintains that there is a rational justification for these geographic and population classifications—to achieve greater gun safety. The Court echoes the rhetorical question presented in the case of *American Trailer Co.*: "does that fact present a problem in respect to trailer camps peculiar to Fairfax County and not existing in other counties excluded from the operation of the act?" 193 Va. at 81.[13] Posing the same inquiry to Virginia Code § 18.2-287.4, the Court must examine whether there are facts present with respect to population or geographic concerns, in the eight cities and five counties listed in the statute, that do not exist in the other cities and counties excluded from the operation of 18.2-287.4? The answer here is that there are no facts present that distinguish the selected cities and counties from those excluded. The statute excludes other major

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population centers but instead, includes a small city like Falls Church, excludes all cities and counties west of Richmond, and excludes other localities within a given region. To conclude, without facts supporting otherwise, the decisions of inclusion and exclusion are without rhyme or reason as in *Riddleberger*. 229 Va. at 221.

Gun violence is an issue that besieges the entirety of the Commonwealth, regardless of geography or population. Virginia Code § 18.2-287.4 includes a selection of cities and counties that bear no similarity to one another and is therefore only included "without rhyme or reason." *Riddleberger*, 229 Va. at 221. Furthermore, Virginia Code § 18.2-287.4 does not bear substantial or reasonable relationship toward the legislative goal of achieving gun safety.

RULING

For the foregoing reasons, the Court **FINDS** that Virginia Code § 18.2-287.4 is **UNCONSTITUTIONAL** pursuant to Article IV, § 14 of the Viriginia Constitution and its prohibition on special laws. The Court hereby **GRANTS** Defendant's Motion.

The Clerk is **DIRECTED** to forward a certified copy of this Order to the parties.

The Court **DISPENSES** with the parties' endorsements pursuant to Rule 1:13.

It is so **ORDERED**.

ENTER: 3/17/2026

Jacqueline S. McClenney, Chief Judge