



August 4, 2026

**Via Federal eRulemaking Portal and U.S. Mail**

The Honorable Todd Blanche,  
Acting Attorney General of the United States

Robert Cekada,  
Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives

c/o: ATF Rulemaking Comments  
Mail Stop 6N-518, Office of Regulatory Affairs  
Enforcement Programs and Services  
Bureau of Alcohol, Tobacco, Firearms, and Explosives  
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Attn: ATF 1140-AA73

Re: Clarifying Interstate Transportation of Firearms Under the Gun Control Act,  
Docket No. ATF-2026-0133, ATF N. 2025R-18P, RIN 1140-AA73, 91 Fed. Reg. 24441  
(May 6, 2026)

Dear Acting Attorney General Blanche and ATF Director Cekada,

The undersigned Attorneys General of New York, California, Colorado, Connecticut, Delaware, the District of Columbia, Hawai'i, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, Virginia, and Washington (the "States") write in response to the Notice of Proposed Rulemaking issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") in the May 6, 2026 edition of the Federal Register, entitled "Clarifying Interstate Transportation of Firearms Under the Gun Control Act" (the "Proposed Rule"). While the States believe that portions of the Proposed Rule are appropriate and consistent with the governing statute, certain of its provisions are arbitrary, capricious, and contrary to law.

## **I. The Proposed Rule Would Muddy the Plain Language of 18 U.S.C. § 926A and Impede Law Enforcement**

The States do not object to interpreting 18 U.S.C. § 926A as covering certain travel-related activities that extend beyond simply transiting between one point and another.<sup>1</sup> The States also do not object to ATF's view that the activities enumerated in Section 478.38(a) of the proposed rule, namely "staying in temporary lodging overnight, transiting between modes of transportation, stopping for food, fuel, vehicle maintenance, an emergency, picking up or discharging passengers, moving a firearm at the beginning of a journey from a fixed address to a vehicle for transportation or at the end of a journey from a vehicle to a fixed address," are scenarios to which Section 926A may reasonably apply, so long as the traveler "store[s] the unloaded firearm and ammunition in a locked container so that they are not readily accessible for immediate use," as the Proposed Rule contemplates.

Certain of the categories require additional clarifying language, however. The States do not object to ATF's view that Section 926A may properly apply to "stopping for . . . medical treatment," but suggest that ATF add language specifying that the exception applies "in the event of an injury or other condition arising out of the travel itself," in order to clarify that firearms may not be carried in foreign states simply because a purpose of travel is to obtain medical treatment, such as when traveling to see a specialist physician. The States also suggest that Section 926A's application to "picking up or discharging passengers" be modified so that it applies to "picking up a passenger who is being transported to the same location as the firearm" and "discharging a passenger who is being transported from the same initial location as the firearm." These limitations would prevent the rule from purporting to encompass long or unnecessary detours in contravention of the statute's language and purpose.

The States are also concerned by the inclusion of broad and overly vague language and urge ATF to remove the terms "reasonably necessary activities incidental to interstate travel" and "any other activity incidental to the original transportation" because these terms are unnecessary, ambiguous, and exceed the governing statute. ATF should delete these terms from the Proposed Rule but keep the accompanying enumerated list (as modified above), which covers virtually all foreseeable situations for the appropriate application of the statute and can be expanded in future rulemakings, if necessary.

The phrases "reasonably necessary activities incidental to interstate travel" and "any other activity incidental to the original transportation" stray far beyond the statutory text and create ambiguity where none previously existed.<sup>2</sup> The statute enacted by Congress contemplates the transport of firearms only when "transport[ing]" a firearm and "during such transportation." 18 U.S.C. § 926A. The right conferred under Section 926A is "qualified and narrow," and is "available if, and only if, the statutory prerequisites to its application are satisfied."<sup>3</sup> It also lays

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<sup>1</sup> See *Khoshnevis v. Property Clerk of NYPD*, 123 A.D.3d 929, 930 (N.Y. App. Div. 2014).

<sup>2</sup> See *United States v. Haggar Apparel Co.*, 526 U.S. 380, 393 (1999) (finding the term "incidental" to be ambiguous when not defined in statute); *Winn-Dixie Stores, Inc. v. Big Lots Stores, Inc.*, 886 F. Supp. 2d 1326, 1344 (S.D. Fla. 2012) ("the term 'incidental' is ambiguous on its face"), *aff'd in part, rev'd in part*, 746 F.3d 1008 (11th Cir. 2014); see also *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 24 (1993) (Scalia, J., concurring) ("I do not think clarity is at all increased by . . . appealing to a 'reasonable person's' notion of what the vague word means." (brackets omitted)).

<sup>3</sup> *Torraco v. Pt. Auth of N.Y. & N.J.*, 615 F.3d 129, 141 (2d Cir. 2010) (Wesley, J., concurring).

out a standard that is relatively clear and administrable, providing straightforward guidance for both firearm owners and law enforcement.<sup>4</sup>

The inclusion of vague language such as “reasonably necessary” and “incidental to the original transportation” undermines that clarity and would make it difficult or impossible to evaluate what travel-related activities are covered. This is a particular challenge for law enforcement officers who must make decisions on the spot, with incomplete information and without access to the large bodies of case law necessary to interpret these ambiguous terms.<sup>5</sup> The result would only deepen “the lack of clarity surrounding the interstate transportation of firearms” that the Proposed Rule decries.<sup>6</sup> The undersigned States further note that this uncertainty and related legal gray areas may make it easier for gun traffickers to evade enforcement and prosecution. By adding ambiguity where none currently exists, ATF acts in excess of the agency’s authority to interpret the governing statute and generates an arbitrary and capricious result.

Section 478.38(a)’s final clause is also duplicative, as the Proposed Rule reads: “Protected transportation under this section includes reasonably necessary activities incidental to interstate travel, such as . . . any other activity incidental to the original transportation.” If “any other activity incidental to the original transportation” is coextensive with the phrase “reasonably necessary activities incidental to interstate travel,” then the clause is unnecessary surplusage and can be deleted. If, on the other hand, “any other activity incidental to the original transportation” is intended as an additional substantive category that covers travel-related activities that are not “reasonably necessary,” then the Proposed Rule strays far outside the statutory text.

In contrast, the enumerated list in the Proposed Rule covers virtually all foreseeable situations where § 926A could apply without creating any such ambiguity, and the language contemplating “an emergency” creates a useful but limited safety valve for unanticipated but appropriate situations. In the event that additional and appropriate travel-related situations for the § 926A exclusion become apparent, ATF can and should add them to the list in a future rulemaking.

## **II. The Proposed Rule’s Attempt to Legalize the Transport of Prohibited Accessories and Large-Capacity Magazines Is Arbitrary and Capricious, Contrary to Law, and Conflicts with Bedrock Principles of Federalism**

The States urge ATF to rescind Section 478.38(b)(6) of the Proposed Rule, which purports to grant “the right to transport attachments, accessories, or other instruments for the firearms [persons] are transporting, including, but not limited to, ammunition (regardless of bullet type), scopes, sights, optics, stocks, grips, stabilizing braces, mounts, weapon-mounted lights, multifunction aiming lights, magazines, clips, feed strips, any other ammunition feeding device, holsters, slings, and firearm cleaning kits.” This provision appears intended to

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<sup>4</sup> See, e.g., Lewen v. Edinboro Univ. of Pa., C.A. No. 10-164, 2011 WL 4527348, at \*5 (W.D. Pa. Sept. 28, 2011) (finding Section 926A “clearly inapplicable” where plaintiff’s firearm “was no longer in transit.”).

<sup>5</sup> See Torraco v. Pt. Auth. of N.Y. & N.J., 539 F. Supp. 2d 632, 644-45 (E.D.N.Y. 2008) (noting that in many firearms arrests “suspects assert some claim of legal entitlement” and that it is inappropriate to interpret Section 926A to “require local police to have on-the-spot knowledge of the firearms laws of all 50 states”).

<sup>6</sup> 91 Fed. Reg. 24,444.

undermine state laws that protect the public by prohibiting the sale or transport of large-capacity magazines,<sup>7</sup> rapid-fire modification devices,<sup>8</sup> and other particularly dangerous accessories, none of which are necessary for armed self-defense. Moreover, the proposed change appears to be motivated more by ideology<sup>9</sup> than by any good-faith reading of the governing statute.

Start with the governing statutory text, which must be interpreted “based on the traditional tools of statutory construction, not individual policy preferences.”<sup>10</sup> Section 926A specifies what items a person is “entitled to transport,” namely “a firearm” and “ammunition.”<sup>11</sup> Both are defined terms under the governing statute,<sup>12</sup> and neither defined term includes “attachments, accessories, or other instruments” as contemplated by the Proposed Rule.<sup>13</sup> If such items were considered “firearm[s]” under the Gun Control Act, then a federal license would be required to sell or transport them, for instance,<sup>14</sup> and a background check would be required in connection with any sale of such item.<sup>15</sup>

By purporting to expand federal preemption to allow the transportation of devices that fall outside the definitions of “firearm” or “ammunition,” the Proposed Rule tramples upon instructions from all three branches of government requiring ATF to prioritize federalism and minimize any infringement of the right of States to decide for themselves what dangerous firearm accessories they will permit.<sup>16</sup> The statutory context “explicitly cautions against finding that Congress intended Section 926A to operate at the exclusion of state gun laws,” as Congress has directed that the federal statute must not be construed to preempt state law “unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together.”<sup>17</sup> ATF’s interpretation also violates the Supreme Court’s well-settled federalism canon of statutory interpretation, under which “[i]f Congress intends to alter the usual constitutional balance between the States and the Federal Government,” or to “pre-empt the historic powers of the States,” “it must make its intention to do so unmistakably clear in the language of the statute.”<sup>18</sup> If Congress had intended Section 926A

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<sup>7</sup> See, e.g., N.Y. Penal Law § 265.37; Cal. Penal Code § 32310; 720 Ill. Comp. Stat. 5/24-1.10; Mass. Gen. Laws c. 140, §§ 121, 131M.

<sup>8</sup> See, e.g., N.Y. Penal Law § 265.01-c; Cal. Penal Code § 32900; Mass. Gen. Laws c. 140, §§ 121, 131M, as amended by St. 2024, c. 135 (rapid-fire trigger activators); Md. Code. Ann. Crim. § 4-305.1.

<sup>9</sup> See 91 Fed. Reg. at 24444 (claiming, without basis, to “protect travelers from state or local laws that infringe on their right to bear arms”).

<sup>10</sup> Loper Bright Enterprises v. Raimondo, 602 U.S. 369, 403 (2024).

<sup>11</sup> 18 U.S.C. § 926A; see Rhode v. Becerra, 342 F. Supp. 3d 1010, 1017 (S.D. Cal. 2018) (§ 926A “entitles a person to transport into the state a firearm and ammunition”).

<sup>12</sup> 18 U.S.C. §§ 921(a)(3), (a)(17)(A).

<sup>13</sup> See Bondi v. VanDerStok, 604 U.S. 458, 474 (2025) (“No one thinks [the definition] reaches every piece or part that can be used to produce a firearm.”).

<sup>14</sup> 18 U.S.C. § 922(a)(1).

<sup>15</sup> 18 U.S.C. § 922(t)(1).

<sup>16</sup> See Carey v. Throwe, 957 F.3d 468, 482 (4th Cir. 2020) (“The regulation of firearms has been at the heart of the states’ police power since the founding.”); United States v. Cruikshank, 92 U.S. 542, 553 (1875).

<sup>17</sup> Torraco v. Pt. Auth of N.Y. & N.J., 615 F.3d 129, 139 (2d Cir. 2010) (quoting 18 U.S.C. § 927); see also Second Amendment Arms v. City of Chicago, No. 10 Civ. 4257, 2012 WL 4464900, at \*6-7 (N.D. Ill. Sept. 25, 2012) (“Nothing in § 926A suggests an intention by Congress to expressly preempt [state and local] laws”).

<sup>18</sup> Gregory v. Ashcroft, 501 U.S. 452, 460-61 (1991) (citations and quotation marks omitted).

to preempt state regulation of the wide swathe of accessories and accoutrements in the Proposed Rule, it could have and would have said so.

The proposed preemption also violates Executive Branch guidelines for rulemaking, as ATF has failed to follow Executive Order 13132, which has been respected by administrations of both parties for over a quarter-century.<sup>19</sup> Under that order, an agency like ATF may only construe a federal statute to preempt state law “where the statute contains an express preemption provision or there is some other clear evidence that the Congress intended preemption of state law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.”<sup>20</sup> None of these situations is present here. The law also requires that “[a]ny regulatory preemption of State law shall be restricted to the minimum level necessary to achieve the objectives of the statute,”<sup>21</sup> but here ATF has designed a maximalist, open-ended formula for preemption that extends not only to the extensive enumerated list of “attachments, accessories, or other instruments,”<sup>22</sup> but also beyond, without any limiting principle. Although ATF cites an informal discussion with some state officials at an FBI Criminal Justice Information Services meeting and now invites comments on the Proposed Rule, neither that limited exchange nor ordinary notice-and-comment proceedings constitutes the formal, meaningful consultation with affected States that Executive Order 13132 contemplates “early in the process of developing the proposed regulation.”<sup>23</sup>

Given that ATF has not previously interpreted Section 926A to include “attachments, accessories, or other instruments,” the Proposed Rule is inadequate in that it fails to provide the required “reasoned explanation for the change.”<sup>24</sup> A simple reference to “impracticalities that would apply to other accessories,”<sup>25</sup> falls far below the required standard.<sup>26</sup> Nor has ATF acknowledged the serious reliance interests of the States, which have calibrated their own firearms laws and enforcement practices to the settled, narrow scope of Section 926A.<sup>27</sup> The proposed preemption is also arbitrary and capricious in that ATF “entirely failed to consider an important aspect of the problem,”<sup>28</sup> namely whether the atextual expansion of Section 926A to cover “attachments, accessories, or other instruments” will incentivize illegal trafficking into states that prohibit items such as large-capacity magazines and forced reset triggers.

The governing statute does not permit ATF to exempt “attachments, accessories, or other instruments” from prohibitions on interstate transport in this way, nor does any other statutory

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<sup>19</sup> See 64 Fed. Reg. 43255 (Aug. 10, 1999).

<sup>20</sup> *Id.* § 4(a).

<sup>21</sup> *Id.* § 4(c).

<sup>22</sup> 91 Fed. Reg. 24,448.

<sup>23</sup> 64 Fed. Reg. 43255 § (6)(c)(1).

<sup>24</sup> *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221 (2016).

<sup>25</sup> 91 Fed. Reg. 24,445.

<sup>26</sup> See *Encino Motorcars, LLC*, 579 U.S. at 221-22 (“the agency must at least ‘display awareness that it is changing position’ and ‘show that there are good reasons for the new policy.’ In explaining its changed position, an agency must also be cognizant that longstanding policies may have ‘engendered serious reliance interests that must be taken into account.’” (quoting *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) (citation omitted))).

<sup>27</sup> See *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30 (2020) (an agency changing position must take “serious reliance interests” into account).

<sup>28</sup> *Alzokari v. Pompeo*, 973 F.3d 65, 70 (2d Cir. 2020).

authority.<sup>29</sup> ATF should strike section 478.38(b)(6) of the proposed rule, together with the parallel reference to “accessories” in the second sentence of proposed section 478.38(a), rather than undermine bedrock principles of federalism, state sovereignty, and public safety. Striking subsection (b)(6) would work no hardship on lawful travelers: Section 926A itself secures the transport of “a firearm” and “ammunition,” the only items Congress chose to protect.

### III. The Proposed Rule Does Not Calculate Its Costs

The States are concerned by ATF’s conclusion that the Proposed Rule “would not impose total costs greater than zero.”<sup>30</sup> This assertion is unaccompanied by any economic analysis and ignores the ways in which the Proposed Rule will add additional burdens to state and local law enforcement. ATF has also analyzed the Proposed Rule in isolation, even though the agency itself has presented it as one component of a coordinated package of regulatory proposals; a reasoned analysis must account for the cumulative burdens that these interlocking proposals will jointly impose on state and local enforcement. That failure is independently arbitrary: ATF asserts benefits for travelers yet assigns zero cost to the enforcement consequences described below, and considers none of the less-harmful alternatives discussed in Part IV, *infra*.<sup>31</sup>

Although the Proposed Rule would not authorize possession where any of the States are the origin or destination of the travel, or where the statutory conditions for protected transport are not satisfied, it will complicate real-time enforcement decisions and may create additional litigation risk in disputed cases. In particular, the proposed rule would likely require the dedication of additional roadside resources to investigative fact development whenever someone is encountered while transporting a firearm or other item covered by Section 478.38(b)(6), including assessment of the person’s claimed origin, destination, route, legality of possession in other jurisdictions, manner of storage, accessibility, and whether any interruption in travel falls within the Proposed Rule’s expanded definition of protected transportation.<sup>32</sup> In close cases, officers may need to consult supervisors or prosecutors before taking (or not taking) enforcement action, which could increase the time and complexity of otherwise routine illegal weapons possession investigations. Law enforcement organizations will also need to update legal guidance, training materials, and field procedures to ensure that officers properly assess the

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<sup>29</sup> Indeed, federal courts in firearm cases regularly distinguish between weapons themselves and the accessories that attach to or accompany them. See United States v. Berger, 715 F. Supp. 3d 676, 700 (E.D. Pa. 2024) (“courts are drawing a line for Second Amendment protection based on whether the particular firearm component is necessary or integral to a firearm’s operation.”); United States v. Cooperman, No. 22-CR-146, 2023 WL 4762710, at \*1 (N.D. Ill. 2023) (“The plain text of the Second Amendment does not protect accessories that are not bearable arms”); United States v. Saleem, No. 23-4693, 2024 WL 5084523 (4th Cir. Dec. 12, 2024) (“While a silencer may be a firearm accessory, it is not a ‘bearable arm’”); Ocean State Tactical, LLC v. Rhode Island, 646 F. Supp. 3d 368, 386-87 (D.R.I. 2022) (“In this Court’s view, L[arge] C[apacity] M[agazines], like other accessories to weapons, are not used in a way that casts or strikes at another.”), *aff’d on other grounds*, 95 F.4th 38 (1st Cir. 2024) (quotation marks and citations omitted).

<sup>30</sup> 91 Fed. Reg. at 24,446.

<sup>31</sup> See Motor Vehicle Mfrs. Ass’n of the U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 46-51 (1983) (agency must consider obvious alternatives and may not ignore an important aspect of the problem); Exec. Order No. 12,866 § 1(b)(6), 58 Fed. Reg. 51,735, 51,736 (Oct. 4, 1993) (agencies must assess both costs and benefits of intended regulation).

<sup>32</sup> See Torraco, 615 F.3d at 138 (enumerating the “difficulties, faced by judiciary and law enforcement officers, inherent in [Section 926A’s] application,” particularly “how a police officer encountering an unlicensed person with a firearm is to ascertain that [] the statute is met.”).

federal interstate transport safe harbor before taking enforcement action. The burden is compounded by the statute's structure: the facts that determine whether Section 926A applies, including origin, destination, lawful possession at each end, and manner of storage, lie almost entirely within the traveler's own knowledge, so each new catch-all category becomes another claimed defense that officers must attempt to evaluate or disprove at the roadside.<sup>33</sup>

By expanding the ability of firearms traffickers to claim safe harbor from state and local laws, the Proposed Rule may also make it more difficult as a practical matter to interdict firearms, ammunition, feeding devices, or accessories discovered in the States when the possessor claims protected interstate transit. This difficulty would lead to significant additional costs to the States and their citizens if these articles reach the criminal market and are subsequently used in crimes of violence. These concerns are concrete: ATF's own trace data show that roughly 80% of the crime guns recovered in New York and traced to an identified purchaser between 2017 and 2021 (22,841 of 28,645) were first purchased out of state.<sup>34</sup>

#### **IV. The Proposed Rule Fails to Consider Obvious, Less-Harmful Alternatives**

The States raise the following alternatives not as substitutes for the revisions requested above, but because the APA obligated ATF to consider them and the Proposed Rule considers none.<sup>35</sup> At a minimum, ATF should have evaluated: (1) codifying the enumerated list of travel-related activities without the catch-all phrases; (2) omitting subsection (b)(6) and subsection(a)'s reference to "accessories" in favor of the statutory terms "firearm" and "ammunition"; (3) an express savings clause confirming that nothing in the rule displaces state laws governing items that are neither "firearms" nor "ammunition"; and (4) a delayed or phased effective date permitting ATF and the States to assess enforcement effects before any nationwide expansion of the safe harbor. Each alternative would achieve the Proposed Rule's stated goal of clarifying Section 926A with far less damage to state enforcement systems, and ATF's failure to consider any of them independently renders the Proposed Rule arbitrary in its current form.

#### **V. ATF Must Minimize any Interference with State and Local Regulation in Order to Comply with America's History and Tradition of Firearm Regulation**

Lastly, the States respectfully disagree with ATF's suggestion that governing interpretations of Section 926A "may not comport with the Supreme Court's precedent on the Second Amendment." To the contrary, Section 926A is fully consistent with "the principles that underpin our regulatory tradition,"<sup>36</sup> which recognize the ability of travelers to transport firearms while actively in transit, but not in "the everyday movement through public spaces like town

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<sup>33</sup> See *id.*; *Torraco*, 539 F. Supp. 2d at 644-45.

<sup>34</sup> ATF, National Firearms Commerce and Trafficking Assessment (NFCTA): Crime Guns – Volume Two: New York, <https://www.atf.gov/media/14251/download>. Other signatory States also face significant proportions of trafficked guns. See, e.g., <https://www.atf.gov/media/14451/download> (67% in Massachusetts); <https://www.atf.gov/media/14456/download> (53% in Maryland); <https://www.atf.gov/media/14491/download> (51% in Illinois).

<sup>35</sup> See *State Farm*, 463 U.S. at 46-51 (rulemaking arbitrary where agency failed to consider an obvious alternative within the ambit of the existing rule).

<sup>36</sup> *United States v. Rahimi*, 602 U.S. 680, 692 (2024).

squares and commercial districts, or the kind of travel associated with modern public transportation.”<sup>37</sup>

This tradition was an understood part of the “pre-existing right” inherited from England, appearing first in Edward III’s “Proclamation for keeping the peace within the City” of London, which established that “no alien shall go in armour, or shall carry sword, knife with point, or other arms, in the City, or in the suburb thereof; on pain of imprisonment,” and instructed “every hosteler and herbergeour, within the franchise of the City, [to] cause his guests to be warned that they must leave their arms and armour in their hostels where they are lodging, in the keeping there of their hosts.”<sup>38</sup> The tradition was carried over into the common law and across the Atlantic, where American jurisdictions passed firearms laws with exceptions for travelers, but strictly limited the scope of such exceptions to prohibit armed carriage during stops or layovers.<sup>39</sup>

Case law from the Fourteenth Amendment Era likewise reflects that these traveler exceptions were strictly limited to persons actually in transit.<sup>40</sup> And today’s federal courts have accordingly continued to reject any contention that the right to carry a weapon in one’s home state also allows the unlicensed carrying of firearms elsewhere.<sup>41</sup>

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<sup>37</sup> *Kipke v. Moore*, 165 F.4th 194, 211 (4th Cir. 2026) (quotation omitted).

<sup>38</sup> 27 Edw. 3 (1353); available at <https://firearmslaw.duke.edu/laws/proclamation-for-keeping-the-peace-within-the-city-27-edw-3-1353>.

<sup>39</sup> See, e.g., II George W. Paschal, *A Digest of the Laws of Texas* 1322 (3d Ed. 1873), available at <https://babel.hathitrust.org/cgi/pt?id=hvd.hl3e66&seq=298> (permitting “persons traveling in the state” only to “keep[] or carry[] arms with their baggage”); 1889 AZ. Acts 31 (“Persons traveling may be permitted to carry arms within settlements or towns of the Territory for one-half hour after arriving in such settlements or town, and while going out of such towns or settlements,” but were otherwise required to “divest themselves of their weapons.”); 1887 N.M. Acts 57 (“Persons traveling may carry arms for their own protection while actually prosecuting their journey and may pass through settlements on their road without disarming; but if such travelers shall stop at any settlement for a longer time than fifteen minutes they shall remove all arms from their person or persons, and not resume the same until upon eve of departure.”); *Los Angeles News* (July 22, 1865) at 1 (reprinting city ordinance prohibiting weapons except for “persons actually traveling and immediately passing through Los Angeles City” and ordering police officers to arrest violators unless they “deposit[] their weapons in a place of safety”).

<sup>40</sup> See *Carr v. State*, 34 Ark. 448, 449 (1879) (“The exception in the statute is to enable travelers to protect themselves on the highways, or in transit through populous places—not to allow them the privilege of mixing with the people in ordinary intercourse, about the streets, armed in a manner which, upon a sudden fit of passion, might endanger the lives of others.”); *Eslava v. State*, 49 Ala. 355 (1873) (“the ‘travelling or setting out on a journey,’ which under the statute excuses the act, must be a travel to a distance from home, and not within the ordinary line of the person’s duties, habits, or pleasure.”); *Smith v. State*, 50 Tenn. 511, 513-14 (1871) (holding that travel exception was designed to protect against “such possible perils of the highways as are not supposed to exist among one’s own neighbors,” but that the law prohibited the “carrying of deadly weapons on the streets, in society, in the community, or among the people with whom we are in the habit of associating.”).

<sup>41</sup> See *Meissner v. City of New York*, No. 23 Civ. 1907, 2025 WL 712744, at \*5 (S.D.N.Y. Mar. 5, 2025) (rejecting as “meritless” a contention that “individuals have a right to drive through New York City with firearms, even if they do not have a New York State license”); *Commonwealth v. Harris*, 481 Mass. 767, 776 (2019) (under Full Faith and Credit Clause, “[t]he Commonwealth is not required to substitute its statutes for those of New Hampshire.”); see also *Hamilton v. Pallozzi*, 848 F.3d 614, 628 & n.15 (4th Cir. 2017) (“Virginia may have opted to restore [felon]’s gun ownership rights within its borders, but Maryland need not do so within its own borders.”); *Higbie v. James*, 795 F. Supp. 3d 307, 343-44 (N.D.N.Y. 2025) (other states “are not empowered to determine who may carry deadly weapons within New York’s borders any more than New York could grant or forbid the right to carry weapons there”).



Section 926A thus strikes the same balance reflected in “this Nation's historical tradition of firearm regulation,”<sup>42</sup> allowing interstate transit with firearms only when actively traveling,<sup>43</sup> but not permitting weapons to be carried during stops or layovers unless permitted by state and local law. The Final Rule should be appropriately tailored both to the statutory text and to this enduring national tradition.

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For the foregoing reasons, the States urge ATF to revise its text to curtail the present ambiguities and to respect bedrock principles of federalism, state sovereignty, and public safety.

Sincerely,



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<sup>42</sup> NYSRPA v. Bruen, 597 U.S. 1, 17 (2022).

<sup>43</sup> See 18 U.S.C. § 926A (statute applies only “during such transportation”).



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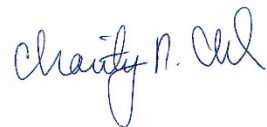
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