

## San Jose Requests Dismissal of Lawsuit Challenging Gun Insurance Legislation



San Jose, California, has asked a federal judge for the second time to dismiss a gun rights group's challenge to a city ordinance requiring gun owners to purchase insurance and pay a fee to a non-profit to prevent gun violence. The city argued that the law remained constitutional even after the U.S. Supreme Court's ruling in *New York State Rifle and Pistol Association v. Bruen*, greatly expanding gun rights.

San Jose's January 2022 ordinance requires gun owners to obtain liability insurance covering losses and damages from negligent or accidental use of their weapons. The law would also require gun owners to pay an annual fee to anti-gun violence non-profits designated by the San Jose city manager. The city has postponed implementing the law during litigation.

The National Association for Gun Rights (NAGR) sued immediately after the law was passed, saying the insurance requirement restricted the right to bear arms under the 2nd Amendment and requiring payments to a non-profit was unconstitutional compelled speech under the 1st Amendment.

U.S. District Judge Beth Labson Freeman dismissed an earlier version of the lawsuit last October, saying it would have to be re-filed in light of *Bruen* to challenge the law under the new standard. In Thursday's motion, San Jose argued that *Bruen* did not invalidate the law.

"(T)he Insurance requirement bears no resemblance to the laws that the Supreme Court has historically struck down as violating Second Amendment rights, all of which have either sought to directly ban, prohibit, or prevent most or all people from keeping or bearing arms," the city wrote.

San Jose also argued that requiring gun owners to buy insurance could not run afoul of the 2nd Amendment because it did not forbid owning or carrying guns. Even if the insurance requirement did restrict the right to bear arms, the city said, it was in line with the nation's historical tradition of gun control because it was analogous to 19th-century laws requiring some people to post bonds to carry guns.

Freeman dismissed the challenge to the fee requirement last year because it was not ripe and had not yet been implemented. San Jose said it must be dismissed again because the requirement was still not implemented since the city had not found a suitable non-profit.

San Jose's ordinance is the first of its kind and has faced significant opposition from gun rights groups. It remains to be seen whether the court will ultimately side with San Jose or the NAGR, but the case outcome could have significant implications for gun control measures in other cities and states.

### REFERENCES:

**San Jose asks judge to toss challenge to gun insurance law**