



## **Cato Institute files brief in California campus carry ban lawsuit**

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The Cato Institute filed an amicus brief Monday in a federal civil rights case over California's 2015 expansion of its Gun Free School Zone Act.

The D.C.-based policy organization asserts in *Ulises Garcia, et al. v. California Attorney General Xavier Becerra*, state law banning concealed carry permit holders from possessing firearms on school grounds violates the 14th Amendment's equal protection clause because it carves out a special exemption for retired law enforcement.

"In this case, an examination of the full factual circumstances proves fatal to the differing treatment contained in the amendment. Both the effects of the amendment itself and the history of lobbying from which the differing treatment arose show that no serious policy concern was on the minds of legislators," said Cato Institute legal scholars Ilya Shapiro and Thomas Berry in a brief filed in the 9th Circuit Court of Appeals on Monday. "Instead, the amendment was enacted purely to advantage one politically powerful class at the advantage of a less powerful and less popular class. Such a motivation is impermissible under the Equal Protection Clause, and for that reason the differing treatment contained in the amendment must be struck down."

In August, U.S. District Judge Beverly Reid O'Connell granted the state's motion to dismiss the case — a decision Firearms Policy Coalition President Brandon Combs promised to appeal.

"This need for self-protection does not disappear simply because the retired peace officer is within 1,000 feet of a school," O'Connell wrote. "Therefore, allowing retired peace officers an exemption from the general ban of carrying concealed weapons on school property is rationally related to the legitimate state interest of ensuring their protection."

“The government keeps trying to put law-abiding gun owners in jail while giving its retired employees special privileges to keep them out of jail,” Combs told Guns.com in August. “Either we’re all going to fight unconstitutional laws together or we’re going to hang together. Their choice.”

O’Connell said establishing legislative intent to discriminate against concealed carry permit holders when the California General Assembly passed Senate Bill 707 is vital for proving a violation of the equal protection clause — and the plaintiffs in the case couldn’t do it.

Shapiro and Berry disagreed, saying in their brief seasoned politicians rarely state intent when speaking on the record about a proposal for fear of violating the clause.

“Thirty years ago, it was predicted that ‘if courts inquire into motive, decisionmakers may work harder to conceal their illicit objectives.’ ... That prediction has proved accurate,” the brief reads. “Today, inquiries must go beyond an innocuous or nonexistent legislative record. That is why the district court’s error, if allowed to stand, would be dangerous. Such a limited approach would effectively foreclose any chance of smoking out illicit purpose, and only further motivate legislative duplicity.”

Craig DeLuz, a spokesperson for the concealed carry permit holders who brought the lawsuit, expressed gratitude for the Cato Institute’s brief in the case in a statement Monday.

“We are very grateful to the Cato Institute, Mr. Shapiro, and Mr. Berry for their excellent brief in support of this case,” DeLuz said. “We cannot thank them enough for their hard work and tireless efforts to promote individual liberty.”