

IN THE SUPREME COURT OF THE STATE OF OREGON

Joseph Arnold and Cliff Asmussen,
Plaintiffs-Respondents,
Petitioners on Review,

and

Gun Owners of America, Inc., and Gun Owners Foundation,
Plaintiffs,

v.

Tina Kotek, Governor of the State of Oregon, in her official capacity; Dan
Rayfield, Attorney General of the State of Oregon, in his official capacity; and
Casey Coddling, Superintendent of the Oregon State Police, in his official
capacity,
Defendants-Appellants,
Respondents on Review.

Harney County Circuit Court No.
22CV41008

Oregon Court of Appeals
A183242

S071885

Review of the decision of the Court of Appeals on Appeal from the
Judgment of the Circuit Court of HARNEY County,
Honorable ROBERT S. RASCHIO, Judge.

Opinion Filed: March 12, 2025

Author of Opinion: ORTEGA, P.J.

Before Judges: Ortega, P.J., Hellman, J., and Mooney, Senior Judge

**BRIEF OF *AMICI CURIAE* LIFT EVERY VOICE OREGON,
CEASEFIRE OREGON, CENTRAL OREGON GUN SAFETY
ADVOCATES, JEWISH FEDERATION OF GREATER PORTLAND,
LEAGUE OF WOMEN VOTERS OF OREGON, MUSLIM
EDUCATIONAL TRUST, ECUMENICAL MINISTRIES OF OREGON,
VIVA INCLUSIVE MIGRANT NETWORK, AND ALBINA
MINISTERIAL ALLIANCE IN SUPPORT OF RESPONDENTS ON
REVIEW**

September 2025

Nadia H. Dahab, OSB No. 125630
SUGERMAN DAHAB
101 SW Main Street, Suite 910
Portland, OR 97204
Tel: (503) 228-6474
nadia@sugermindahab.com

*Attorneys for Amici Curiae Lift Every
Voice Oregon, Ceasefire Oregon,
Central Oregon Gun Safety
Advocates, Jewish Federation of
Greater Portland, League of Women
Voters of Oregon, Muslim
Educational Trust, Ecumenical
Ministries of Oregon, VIVA Inclusive
Migrant Network, and Albina
Ministerial Alliance*

Daniel A. Rayfield, OSB No. 064790
Benjamin Gutman, OSB No. 160599
Robert A. Koch, OSB No. 072004
OFFICE OF ATTORNEY GENERAL
1162 Court Street NE
Salem, Oregon 97301
Tel: 503-378-6002
robert.a.koch@doj.state.or.us
benjamin.gutman@doj.state.or.us

Attorneys for Respondents on Review

Tyler D. Smith, OSB No. 075287
Tony L. Aiello, Jr., OSB No. 203404
TYLER SMITH AND
ASSOCIATES PC
181 N. Grant Street, Suite 212
Canby, Oregon 97013
Tel: 503- 496-7177
tyler@ruralbusinessattorneys.com
tony@ruralbusinessattorneys.com

Attorneys for Petitioner on Review

TABLE OF CONTENTS

BACKGROUND AND INTEREST OF <i>AMICI CURIAE</i>	1
ARGUMENT	6
I. The trial court’s ruling is not consistent with the text and history of Measure 114.	6
A. Measure 114 was created and drafted by a diverse coalition of Oregonians who shared a common goal: stop gun violence.	7
B. The text of Measure 114 makes clear that its purpose is to promote public safety.	12
C. The legislative history overwhelmingly establishes Measure 114’s public safety objectives.	17
II. Measure 114 promotes public safety.	21
A. Measure 114’s restriction on large-capacity magazines reduces gun violence.	24
B. Measure 114’s permit-to-purchase requirement reduces gun violence.	31
C. Measure 114’s closure of the Charleston Loophole reduces gun violence.	32
III. The trial court applied the wrong legal standard.	34
IV. The trial court impermissibly substituted its policy preferences for those of the voters who passed Measure 114.	41
CONCLUSION	42

TABLE OF AUTHORITIES

Cases

<i>Burke v. DLCD,</i> 352 Or 428, 290 P3d 790 (2012)	17, 41
<i>Con-Way Inc & Affiliates v. Dep’t of Revenue,</i> 353 Or 616, 302 P3d 804 (2013)	17
<i>Havi Group LP v. Fyock,</i> 204 Or App 558, 131 P3d 793 (2006)	15
<i>Or. Cable Telecomms. v. Dep’t of Revenue,</i> 237 Or App 628, 240 P3d 1122 (2010)	15
<i>Or. Firearms Fed’n, Inc. v. Brown,</i> 644 F Supp 3d 782 (D Or 2022)	24
<i>Pacificorp Power Marketing, Inc. v. Dep’t of Revenue,</i> 340 Or 204, 131 P3d 725 (2006)	13
<i>Papworth v. DLCD,</i> 255 Or App 258, 296 P3d 632 (2013)	17
<i>PGE v. Bureau of Labor & Indus.,</i> 317 Or 606, 859 P2d 1143 (1993)	7
<i>State v. Allison,</i> 143 Or App 241, 923 P2d 1224 (1996)	17
<i>State v. Christian,</i> 354 Or 22, 307 P3d 429 (2013)	6, 7, 34, 41
<i>State v. Cloutier,</i> 351 Or 68, 261 P3d 1234 (2011)	7
<i>State v. Gaines,</i> 346 Or 160, 206 P3d 1042 (2009)	7
<i>State v. Guzek,</i> 322 Or 245, 906 P2d 272 (1995)	7
<i>State v. Hirsch/Friend,</i> 338 Or 622, 114 P3d 1104 (2005)	41
<i>State v. Sutherland,</i> 329 Or 359, 987 P2d 501 (1999)	34
<i>State v. Urie,</i> 268 Or App 362, 341 P3d 855 (2014)	17, 20
<i>Stranahan v. Fred Meyer, Inc.,</i> 331 Or 38, 11 P3d 228 (2000)	41
<i>Sundermier v. State ex rel. Public Emps. Retirement Sys.,</i> 269 Or App 586, 344 P3d 1142 (2015)	16

Statutes

Measure 114	passim
Senate Bill 243 (2025)	14

Other Authorities

Alexander D. McCourt et al., <i>Purchaser licensing, point-of-sale background check laws, and firearm homicide and suicide in 4 US states, 1985–2017</i> , 110 Am. J. Pub. Health 1546 (Oct. 2020)	32
Alice Gainer & Chris Wragge, <i>Sandy Hook School Shooting Survivors Graduate From High School</i> , CBS News (June 12, 2024, 5:58 PM), https://www.cbsnews.com/newyork/news/sandy-hook-survivors-graduating/ ...	25
Ariel Zambelich & Alyson Hurt, <i>3 Hours in Orlando: Piecing Together an Attack and its Afterman</i> , NPR (June 26, 2016, 5:09 PM), https://www.npr.org/2016/06/16/482322488/orlando-shooting-what-happened-update	9
Brady United, <i>Gun Sale Loopholes</i> , https://www.bradyunited.org/resources/issues/gun-sales-loopholes	33
Center for Civic Education, <i>Dr. Martin Luther King Jr. 's Six Principles of Nonviolence</i> , https://civiced.org/six-principles-nonviolence	8
Christal Hayes & Emily Bohatch, <i>“I’m sick to my stomach”: 17 Dead in Florida High School Shooting, Former Student in Custody</i> , USA Today (Feb 14, 2018, 3:13 PM), https://eu.usatoday.com/story/news/2018/02/14/injuries-reported-after-shooting-florida-high-school/338217002/	10
Daniel Webster, et al., <i>Effects of the repeal of Missouri’s handgun purchaser licensing law on homicides</i> , 91 J. Urban Health 293 (Apr. 2014)	32
Dirk Vanderhart et al., <i>Oregon Shooting at Umpqua College Kills 10, Sheriff Says</i> , NY Times (Oct 1, 2015), https://www.nytimes.com/2015/10/02/us/oregon-shooting-umpqua-community-college.html	31
Elizabeth Chuck et al., <i>17 Killed in Mass Shooting at High School in Parkland, Florida</i> , NBCnews.com (Feb 14, 2018), https://www.nbcnews.com/news/us-news/police-respond-shooting-parkland-florida-high-school-n848101	10
Everytown Research & Policy, <i>Which States Have Closed or Limited the Charleston Loophole?</i> , https://everytownresearch.org/rankings/law/	13
Johns Hopkins Univ. Bloomberg School of Public Health, Center for Gun Violence Solutions (2023)	23
Johns Hopkins Univ. Bloomberg School of Public Health, <i>New Report Highlights U.S. 2022 Gun-Related Deaths: Firearms Remain Leading Cause</i>	

<i>of Death for Children and Teens, and Disproportionately Affect People of Color</i> (Sept 12, 2024)	22
Johns Hopkins Univ. Ctr. for Gun Violence Solutions, U.S. Gun Violence in 2021 (June 2023)	21, 23
Joseph R. Biden, Jr., <i>A Proclamation on the Day of Remembrance: 10 Years After the 2012 Sandy Hook Elementary School Shooting</i> (Dec. 14, 2022)	8
Mark Despart, “ <i>He Has a Battle Rifle</i> ”: <i>Police Feared Uvalde Gunman’s AF 15</i> , The Texas Tribune (Mar 20, 2023, 5:00 AM), https://www.texastribune.org/2023/03/20/uvalde-shooting-police-ar-15/	25
Michael Sigel & Claire Boine, Rockefeller Inst. of Gov’t, <i>What Are the Most Effective Policies in Reducing Gun Homicides?</i> (Mar. 29, 2019)	32
Noelle Crombie, <i>Las Vegas Shooting Updates: At least 59 Dead; Video Shows Crowd as Gunman Fires</i> , OregonLive (Oct 2, 2017, 6:34 PM), https://www.oregonlive.com/today/2017/10/las_vegas_shooting_gunman_dead.html	10
NPR.org, <i>Special Series: Buffalo Tops Mass Shooting</i> (updated May 25, 2023), https://www.npr.org/series/1131097312/buffalo-tops-mass-shooting	11
Oregon State Police, Firearms Instance Check System (FCIS) Program Overview (2023)	33
Orlando Sentinel, <i>Pulse Nightclub Shooting in Orlando: Remembering the Victims of June 12, 2016</i> (June 11, 2024), https://www.orlandosentinel.com/2024/06/11/pulse-nightclub-shooting-remembering-the-victims-of-june-12-2016-2/	9
Salem Police Department, <i>Salem, Oregon, Gun Violence Problem Analysis</i> (Aug. 2023), https://s3.documentcloud.org/documents/24168528/salempd_gvpa_report.pdf	22
Sarah Taddeo, <i>What Kind of Gun was Used in the Buffalo Shooting? What We Know</i> , NY Democrat & Chronicle (May 15, 2022, 6:09 PM), https://www.democratandchronicle.com/story/news/2022/05/15/buffalo-shooting-gun-used-ar-15-suspect-payton-gendron-purchased-vintage-firearms-endicott/9786647002/	25
Steve Almasy, <i>Newtown Shooter’s Guns: What We Know</i> , CNN (Dec 19, 2012), https://www.cnn.com/2012/12/18/us/connecticut-lanza-guns/index.html	25
Texas Tribune, <i>Uvalde School Shooting</i> (updated May 24, 2023), https://www.texastribune.org/series/uvalde-texas-school-shooting/	11
Timothy M. Phelps et al., <i>Mass Shooting at Church in Charleston Resonates Far Beyond</i> , L.A. Times (June 19, 2015, 3:00 AM),	

https://www.latimes.com/nation/la-na-charleston-shooting-20150619-story.html	13
U.S. Ctrs. for Disease Control & Prevention, National Center for Health Statistics National Vital Statistics System, Mortality 2018-2021 (2021), http://wonder.cdc.gov/ucd-icd10-expanded.html/	22
U.S. Ctrs. for Disease Control & Prevention, <i>Summary of Initial Findings from CDC-Funded Firearm Injury Prevention Research</i> (Oct. 5, 2023), https://www.cdc.gov/violenceprevention/firearms/firearm-research-findings.html	21, 22
Violence Policy Center, <i>Mass Shootings in the United States Involving Large Capacity Ammunition Magazines</i> (updated Jan 2024)	26
Voters' Pamphlet, Oregon General Election (Nov 2022).....	19, 20
<i>Webster's Third New Int'l Dictionary</i> (unabridged ed 2002).....	13
Constitutional Provisions	
Or Const Art I, § 27	6, 32, 39

BACKGROUND AND INTEREST OF *AMICI CURIAE*

Amici curiae are Oregon nonprofit organizations that advocate for reasonable, effective, and evidence-based gun laws that serve to prevent gun violence and promote public safety. Many have worked tirelessly to develop and pass Measure 114 and to pursue its implementation. The experiences of *amici curiae* provide particularly relevant context to the question this case presents, which addresses the constitutionality of Measure 114, Oregon's Reduction of Gun Violence Act, and the public safety purposes the measure serves.

Lift Every Voice Oregon (LEVO) was formed in February 2018 by a community of interfaith leaders and people of good will who believed that gun violence must stop. Many of these leaders had been working together for peace and justice in all areas for years. LEVO was created to be a diverse, equitable and inclusive volunteer-driven grassroots movement guided by taking the high road in its decision-making and action. LEVO drafted Initiative Petition 17; pursued it through the ballot title process; with the support of thousands of volunteers, collected more than 160,000 signatures to qualify it as Measure 114 on the ballot; the voters passed it in November 2022. Throughout this period, LEVO educated Oregonians through print and public appearances about the ongoing harm and violence resulting from unqualified gun purchases and the horrific consequences of using guns loaded with large-capacity magazines. LEVO's participation as *amicus*

curiae will help to provide information to the Court regarding the legislative history of Measure 114 and the public safety purposes it serves.

Ceasefire Oregon (Ceasefire) is a nonprofit, long-term advocacy organization that pursues avenues to reduce gun violence and promote gun safety. Founded in 1994 as a grassroots organization, Ceasefire has worked for over 30 years to reduce gun violence by advocating for reasonable, effective and evidence-based gun laws. It educates the public and legislators about gun violence, lobbies in support of bills that will help make Oregon's communities safer, and works to prevent the passage of bills that would make it easier for dangerous people to obtain and carry firearms.

Central Oregon Gun Safety Advocates (COGSA) focuses on community safety through education and advocacy. Combined, its members have decades of experience with gun violence prevention, including tabling, handing out free gun locks, holding community education sessions, and lobbying legislators for better laws. COGSA provides a space for central Oregonians, including gun owners who share its goals, to participate in community education and advocacy work.

The **Jewish Federation of Greater Portland (JFGP)** is a nonprofit that has been in existence since 1920. The JFGP serves as the primary advocacy and philanthropic organization for the metropolitan-area Jewish community, with representation from almost every synagogue, congregation, and Jewish community

nonprofits serving on its primary policy-making body, the Jewish Community Relations Council (JCRC). The JCRC works in concert with other faith communities to advocate on issues of broad concern to the security and well-being of our communities, and gun violence prevention is an important area of mutual concern. The JCRC has consistently supported statewide gun violence prevention legislation for more than a decade.

The **League of Women Voters of Oregon** is a grassroots, nonpartisan organization that encourages informed and active participation in government. It believes that the proliferation of handguns and semi-automatic weapons poses a major public health and safety threat to communities in Oregon and across the nation. For more than two decades, the League has strongly advocated for common sense firearm regulations, including Measure 114.

The **Muslim Educational Trust (MET)** is a community-based organization dedicated to changing lives, breaking barriers, building resilience, and fostering harmony through transformative compassion, while employing a voice of moderation. Through bridge-building dialogue, civic engagement, positive integration, and the education of its youth and the wider public, the MET has been addressing the social determinant of health for all Oregonians. It brings communities together and creates opportunities for mutual dialogue and bridge-building that transgress the boundaries of race, color, faith, and ethnic background

to break down the barriers and stereotypes and promote our shared values of compassion, justice, and mutual understanding. It opposes the choice of violence to resolve disputes and supports efforts of other organizations to bring common sense laws intended to impede the increasing level of gun violence in Oregon and throughout the United States.

Albina Ministerial Alliance is 75 years old. It is one of the oldest ecumenical ministerial alliances in Portland, bringing together 125 Portland-area churches, including many predominantly African American congregations. It has engaged in social justice work since the 1970s, and its roots run deep in its ministers' civil rights era work. Through its Social Justice arm (the Albina Ministerial Alliance Coalition for Justice and Police Reform), AMA's leaders have appeared as *amicus curiae* in several matters, in particular those related to the use of deadly force by police officers. The AMA has also been a strong supporter of Measure 114. It has worked diligently with LEVO and other coalition members to get the measure passed. The AMA believes that implementation of Measure 114 will achieve the right balance between the constitutional right to own a gun and the citizen's right to public safety and will provide a significant tool in limiting mass shootings in the state of Oregon.

Ecumenical Ministries of Oregon (EMO) is a statewide association of faith partners working together to improve the lives of Oregonians through public

policy advocacy, direct service programs, creation justice, and interreligious education and dialogue. EMO is committed to advocate for a society in which all persons are free to live together in peace and harmony. It advocates for the end of gun violence on the grounds of our social principles of love, respect of all life, and dignity of every human. In EMO's view, we would be complicit if we were not proactive in supporting common-sense gun control.

VIVA Inclusive Migrant Network (VIVA) defends migrant communities by helping them identify tools needed to protect their rights and stop family separation. VIVA aspires to help build a diverse community where migrants and refugees are welcome with full rights and responsibilities in an environment of mutual respect, peace, harmony, and justice. VIVA continually works to bring people together to work toward social justice and to advocate for marginalized communities. Consistent with this goal, VIVA opposes the unlawful use of violence, particularly that carried out by the use of firearms to which many of our members have been subjected. VIVA seeks to join this brief to further the goal of reducing gun violence through the implementation of Measure 114.

ARGUMENT

Amici curiae join the arguments made in the State’s Brief on the Merits. In further support of the State’s request that this Court affirm the decision of the Court of Appeals and reverse the trial court’s judgment, *amici curiae* respectfully offer the following.

I. The trial court’s ruling is not consistent with the text and history of Measure 114.

The right to bear arms set forth under Article I, section 27, of the Oregon Constitution is not an absolute right. As Oregon courts have recognized, “the legislature has wide latitude to enact specific regulations restricting the possession and use of weapons to promote public safety.” *State v. Christian*, 354 Or 22, 33, 307 P3d 429 (2013). Consistently with Article I, section 27, the legislature may do so “as long as the enactment does not unduly frustrate the individual right to bear arms for the purpose of self-defense.” *Id.*; *see also id.* at 33–34 (“In the United States generally, it has been recognized that the right to bear arms is not absolute and that the exercise of legislative authority reasonably restricting the right to bear arms to promote public safety is constitutionally permissible.”). The question in this case is whether Measure 114, adopted by Oregon voters in November 2022, violates Article I, section 27. Applying *Christian*, the answer to that question turns centrally on whether the measure promotes public safety. For the reasons explained below, it does.

In any constitutional challenge to a state law, this Court’s threshold task is to understand the meaning and history of that law. *See Christian*, 354 Or at 26.

Generally speaking, Oregon courts “appl[y] the same method of statutory analysis to a statute enacted by the voters as it would to a statute enacted by the Legislative Assembly.” *State v. Guzek*, 322 Or 245, 265, 906 P2d 272 (1995); *see also PGE v. Bureau of Labor & Indus.*, 317 Or 606, 612 n 4, 859 P2d 1143 (1993) (“The same structure * * * applies, not only to statutes enacted by the legislature, but also to the interpretation of laws and constitutional amendments adopted by initiative or referendum.”). That analysis, of course, is well settled: the Court should “examin[e] the text of the statute in its context, along with relevant legislative history, and, if necessary, canons of construction.” *State v. Cloutier*, 351 Or 68, 75, 261 P3d 1234 (2011) (citing *State v. Gaines*, 346 Or 160, 171–73, 206 P3d 1042 (2009)).

A. Measure 114 was created and drafted by a diverse coalition of Oregonians who shared a common goal: stop gun violence.

Amici curiae respectfully offer the Court the following background so that the Court understands the efforts made by the Oregonians who drafted and qualified Measure 114 for statewide election. Those Oregonians shared a common goal, which aligns with the purpose of Measure 114 and the reason the voters passed it: stop gun violence.

Measure 114 is the product of grassroots coalition formed by a community of faith leaders and people of good will who believe that gun violence must end. The initial coalition, known now as Lift Every Voice Oregon (“LEVO”), along with thousands of volunteers, believed that action was necessary in Oregon.¹

The genesis of LEVO began after several mass shootings, including the Sandy Hook Elementary School massacre in 2012, and the Pulse Nightclub massacre in 2016. At Sandy Hook, 20 first-graders and six adult school staff members were murdered by a person who entered the school with a semi-automatic AR-15 assault rifle, among other firearms, and opened fire in the elementary school’s classrooms.² At Pulse Nightclub, a gunman killed 49 people

¹ The name “Lift Every Voice Oregon” draws upon a poem and song of those who have suffered oppression in many forms—from slavery to discriminatory treatment in every manner—but have persevered as they seek change. LEVO’s decisions and actions are guided by Rev. Dr. Martin Luther King Jr.’s Six Principles of Nonviolence. See Center for Civic Education, *Dr. Martin Luther King Jr.’s Six Principles of Nonviolence*, <https://civiced.org/six-principles-nonviolence> (last visited June 12, 2024). LEVO seeks to engage those who may believe all gun regulation is unnecessary to bring about change through peaceful dialogue and interaction.

² Joseph R. Biden, Jr., *A Proclamation on the Day of Remembrance: 10 Years After the 2012 Sandy Hook Elementary School Shooting* (Dec. 14, 2022), <https://bidenwhitehouse.archives.gov/briefing-room/presidential-actions/2022/12/14/a-proclamation-on-day-of-remembrance-10-years-after-the-2012-sandy-hook-elementary-school-shooting/#:~:text=NOW%2C%20THEREFORE%2C%20I%2C%20JOSEPH,Sandy%20Hook%20Elementary%20School%20Shootin> (last visited Sept 16, 2025).

at a gay nightclub in Orlando, Florida, using several high-capacity magazines.³ At the time, the Pulse Nightclub massacre was the deadliest mass shooting in the United States.⁴

At a vigil at Augustana Lutheran Church after the Pulse Nightclub shooting, hundreds of leaders renewed their commitment to end the violence; included in that gathering were Rev. Dr. Mark Knutson and Tamrah Knutson, Rev. Dr. LeRoy Haynes, Rev. Alcena Boozer, Rabbi Michael Z. Cahana, Imam Muhammad Najieb, Rev. Lynn Smouse Lopez, Wajdi Said, and jazz legends Marilyn Keller and Ron Steen. That small coalition of leaders ignited and eventually grew larger—to include community members from Native American, Jewish, Christian, Muslim, Buddhist, and other traditions, as well as with leaders from communities of color, the LGBTQIA+ community, mental health leaders, and many other organizations and elected leaders. Each member held high the value of human life and opposed violent means for resolving conflict.

³ Ariel Zambelich & Alyson Hurt, *3 Hours in Orlando: Piecing Together an Attack and its Aftermath*, NPR (June 26, 2016, 5:09 PM), <https://www.npr.org/2016/06/16/482322488/orlando-shooting-what-happened-update> (last visited Sept 16, 2025).

⁴ The Pulse Nightclub Shooting occurred a little over 9 years ago. See Orlando Sentinel, *Pulse Nightclub Shooting in Orlando: Remembering the Victims of June 12, 2016* (June 12, 2025), <https://www.orlandosentinel.com/2025/06/12/pulse-nightclub-shooting-remembering-the-victims-of-june-12-2016-2/> (last visited Sept 16, 2025).

In 2017, the deadliest mass shooting in U.S. history occurred in Las Vegas, Nevada, when a gunman perched on a balcony at a Las Vegas hotel casino unleashed hundreds of rounds on an outdoor country music festival below. The shooter was armed with semi-automatic rifles and 100-round large-capacity magazines. Sixty people were killed and more than 410 injured.⁵ Then, in 2018, 17 students were killed and 17 more injured at the Marjory Stoneman Douglas High School in Parkland, Florida.⁶ The gunman, a former student, was armed with “countless” magazines and an AR-15-style rifle.⁷

Thereafter, LEVO’s commitment evolved into concrete action: to bring a ballot measure to Oregon’s 2018 general election. That year, LEVO attempted to qualify IP 43 for the ballot to ban the sale and manufacture of large-capacity magazines and assault weapons. The ballot title was not approved in time for the petition to proceed.

⁵ Noelle Crombie, *Las Vegas Shooting Updates: At least 59 Dead; Video Shows Crowd as Gunman Fires*, OregonLive (Oct 2, 2017, 6:34 PM), https://www.oregonlive.com/today/2017/10/las_vegas_shooting_gunman_dead.html (last visited Sept 16, 2025).

⁶ Elizabeth Chuck et al., *17 Killed in Mass Shooting at High School in Parkland, Florida*, NBCnews.com (Feb 14, 2018), <https://www.nbcnews.com/news/us-news/police-respond-shooting-parkland-florida-high-school-n848101> (last visited Sept 16, 2025).

⁷ Christal Hayes & Emily Bohatch, *“I’m sick to my stomach”: 17 Dead in Florida High School Shooting, Former Student in Custody*, USA Today (Feb 14, 2018, 3:13 PM), <https://eu.usatoday.com/story/news/2018/02/14/injuries-reported-after-shooting-florida-high-school/338217002/> (last visited Sept 16, 2025).

In 2019, LEVO filed three initiative petitions (IP 60, 61, and 62) and obtained certified ballot titles on each just as the COVID-19 pandemic began to spread across the United States. LEVO chose not to ask volunteers to risk their health by collecting signatures; instead, it used the time to work on two initiative petitions (IP 17 and 18) for the 2022 ballot. While COVID-19 lingered in the fall of 2021 and winter of 2022, LEVO collected signatures, wearing masks and taking other precautions as necessary. Six hundred volunteers diligently collected signatures through spring of 2022. LEVO hired a small group of paid gatherers as the deadline of July 8, 2022, approached.

On May 16, 2022, a mass shooter killed 10 and injured 3 in a Buffalo, New York supermarket.⁸ A week later, on May 24, a mass shooter killed 19 third and fourth graders and two teachers in an elementary school in Uvalde, Texas.⁹ Oregonians responded: after those horrific events, hundreds of Oregonians contacted LEVO asking how they could help. More than 1000 new signature gatherers signed up to assist. *See also* Trial Court Transcript (Tr.) at 1281 (“Every morning I’d wake up, we’d get 50 to 70 new participants wanting to be circulators

⁸ NPR.org, *Special Series: Buffalo Tops Mass Shooting* (updated May 25, 2023), <https://www.npr.org/series/1131097312/buffalo-tops-mass-shooting> (last visited Sept 16, 2025).

⁹ Texas Tribune, *Uvalde School Shooting* (updated May 24, 2023), <https://www.texastribune.org/series/uvalde-texas-school-shooting/> (last visited Sept 16, 2025).

or volunteers in some way.”). By July 8, LEVO had collected more than 161,000 signatures to submit to the Secretary of State’s office. Tr. at 1284. Seventy-five percent of those signatures were collected by volunteers. Tr. at 1289.

Measure 114 had qualified for the ballot in the 2022 general election.

B. The text of Measure 114 makes clear that its purpose is to promote public safety.

Measure 114 was passed by voters in November 2022. It creates three primary mechanisms that seek to achieve its express objective to promote public safety.

First, the measure creates a permit-to-purchase requirement, whereby any person seeking to purchase a firearm after the measure’s effective date must undertake safety training and complete a background check to receive a permit to purchase guns. Measure 114 §§ 6 (requires permits for licensed dealer sales); 7 (same for private transfers); 8–9 (same for transfers at gun shows). Any person may apply for a permit from a “permit agent,” Measure 114 § 4(1)(a); *see also id.* § 3(4), (5), and is qualified to receive a permit so long as the person (1) is not otherwise prohibited under state or federal law; (2) is not otherwise disqualified by court-issued extreme risk protection order; (3) does not present reasonable basis to conclude that they are a danger to self or others; (4) provides proof of completion of a firearm safety course; (5) successfully completes a criminal background check; and (6) pays a fee. Measure 114 § 4(1)(b). The permit agent “shall issue

the permit-to-purchase” within 30 days of receipt of the application, so long as the applicant meets each of those qualifying conditions. Measure 114 § 4(3)(a). The 30-day period sets the outer limit for issuing the permit-to-purchase; it does not, as the trial court ruled, operate to unreasonably delay the issuance of the permit in the first place. *See Webster’s Third New Int’l Dictionary* 2627 (unabridged ed 2002) (“within” means “in the limits of compass of”; “before the end * * * of”; “not farther in length or distance than”).¹⁰ Once issued, the permit is valid for all firearm purchases for five years. Measure 114 § 4(7)(a).

Second, Measure 114 closes the so-called “Charleston Loophole” by requiring the background check be completed before the issuance of a permit. The “Charleston Loophole” refers to the gap in federal gun laws that allows the sale of a firearm to proceed after three business days, even if the purchaser’s background check is not complete. *See* 18 USC § 922(t)(1)(B)(ii).¹¹ Measure 114 would close

¹⁰ *Webster’s Third* is the dictionary of choice for the Oregon appellate courts. *See, e.g., Pacificorp Power Marketing, Inc. v. Dep’t of Revenue*, 340 Or 204, 215, 131 P3d 725 (2006).

¹¹ *See also* Everytown Research & Policy, Which States Have Closed or Limited the Charleston Loophole?, <https://everytownresearch.org/rankings/law/charleston-loophole-closed-or-limited/> (last visited Sept 16, 2025). The Charleston Loophole gets its name from the shooting that occurred at the Emanuel African Methodist Episcopal Church in Charleston, SC, in 2015. *See* Timothy M. Phelps et al., *Mass Shooting at Church in Charleston Resonates Far Beyond*, L.A. Times (June 19, 2015, 3:00 AM), <https://www.latimes.com/nation/la-na-charleston-shooting-20150619-story.html> (last visited June 13, 2024). The shooter was able to purchase a gun because of the loophole in the background check system; he was

that gap by (1) requiring a completed background check before a permit-to-purchase is issued, and (2) requiring a completed background check at the point-of-sale before the firearm is transferred by a licensed dealer to a buyer. Measure 114 §§ 4(1)(b), (e); 6(3)(c).

Third, Measure 114 prohibits future manufacture, sale, transfer, and possession of large-capacity magazines, or magazines with a capacity over 10 rounds. Measure 114 § 11(2) (“Notwithstanding ORS 166.250 to 166.470, and except as expressly provided in subsections (3) to (5) of this section, a person commits the crime of unlawful manufacture, importation, possession, use, purchase, sale or otherwise transferring of large-capacity magazines if the person manufactures, imports, possesses, uses, purchases, sells or otherwise transfers any large-capacity magazine in Oregon on or after the effective date of this 2022 Act.”); *id.* § 11(1)(d) (defining “large-capacity magazine”). The measure allows previously owned large-capacity magazines to be retained for limited use, *see id.* § 11(5), and does not apply to possession or use by military or law enforcement officers so long as the “possession or use is related directly to activities within the scope of that person’s official duties,” *id.* § 11(4)(c).¹²

legally prohibited from purchasing a gun but was able to do so because the background check hadn’t been completed within three business days.

¹² The effective date that applies to the retention of previously owned large-capacity magazines, as well as other restrictions on them, was extended to March 15, 2026, by the legislature. *See* Senate Bill 243, § 7 (2025).

The text of Measure 114 makes clear that the purpose of those mechanisms is to promote public safety. The measure’s preamble, for one, provides important context. *See Or. Cable Telecomms. v. Dep’t of Revenue*, 237 Or App 628, 641, 240 P3d 1122 (2010) (“The preamble to the bill further informs our understanding of the legislature’s intention * * *.” (citing *Havi Group LP v. Fyock*, 204 Or App 558, 564, 131 P3d 793 (2006))). It explains the measure’s purpose in great detail:

“Whereas the People of the State of Oregon have seen a sharp increase in gun sales, gun violence, and raised fear in Oregonians of armed intimidation, *it is imperative to enhance public health and safety in all communities*; and

“Whereas the gun violence in Oregon and the United States, resulting in horrific deaths and devastating injuries due to mass shootings, homicides and suicides is unacceptable at any level, and the availability of firearms, including semiautomatic assault rifles and pistols with accompanying large-capacity ammunition magazines, *pose a grave and immediate risk to the health, safety and well-being of the citizens of this State, particularly our youth*; and

“Whereas Oregon currently has no permit requirements for purchasing a semiautomatic assault firearm or any other type of weapon and studies have shown that permits-to-purchase *reduce firearm-related injuries and death* and studies further have shown that *firearm ownership or access to firearms triples the risk of suicide and doubles the risk of homicide* when compared to someone who does not have access, this measure will require that anyone purchasing a firearm must first complete a safety training course, successfully pass a full background check and, only then, will an individual be granted a permit-to-purchase a firearm, *so that firearms are kept out of dangerous hands*; and

“Whereas large-capacity magazines are often associated with semiautomatic assault rifles, and can also be used with many semiautomatic firearms including shotguns and pistols, and estimates suggest that *nearly 40% of crime guns used in serious violent crimes, including attacks on law enforcement officers, are equipped with large-capacity magazines*; and

“Whereas firearms equipped with large-capacity magazines *increase casualties by allowing a shooter to continue firing for longer periods of time*

before reloading, thus explaining their use in all 10 of the deadliest mass shootings since 2009, and in mass shooting events from 2009 to 2018 where *the use of large-capacity magazines caused twice as many deaths and 14 times as many injuries, including the 2015 shooting at Umpqua Community College in Roseburg, Oregon in which 10 people were killed and 7 more were injured*; and

“Whereas restrictions on high-capacity magazines during the 10-year federal ban from 1994-2004 and the ban in over nine (9) states and the District of Columbia have been found to *reduce the number of fatalities and injuries in shooting incidents, this measure will enhance the safety of residents, particularly children, of this state* by prohibiting the manufacture, sale, or transfer of large-capacity ammunition magazines and regulate the use of such magazines that are currently owned.”

Measure 114 (preamble) (emphasis added). So too does the measure’s policy statement:

“The People of the State of Oregon find and declare that regulation of sale, purchase and otherwise transferring of all firearms and restriction of the manufacture, import, sale, purchase, transfer, use and possession of ammunition magazines to those that hold no more than 10 rounds *will promote the public health and safety of the residents of this state* and this Act shall be known as the Reduction of Gun Violence Act.”

Measure 114 § 2 (emphasis added); *see also Sundermier v. State ex rel. Public Emps. Retirement Sys.*, 269 Or App 586, 595, 344 P3d 1142 (2015) (“Statements of statutory policy are also considered useful for interpreting a statute.”). The measure, passed into law by a majority of Oregon voters in 2022, clearly is intended to enhance public safety and reduce firearm-related injuries and deaths in Oregon.

C. The legislative history overwhelmingly establishes Measure 114's public safety objectives.

In the case of statutes adopted by initiative or referendum, the relevant “legislative” intent includes the intentions of the voters who adopted the law. *Burke v. DLCD*, 352 Or 428, 433, 290 P3d 790 (2012) (“When we interpret a referendum * * * our goal is to discern the intent of the voters who adopted it.”); *Papworth v. DLCD*, 255 Or App 258, 265, 296 P3d 632 (2013) (“When interpreting a statute enacted by legislative referral, our task is to discern the intent of the voters.”). “Legislative history” therefore includes materials about the measure contained in the voters’ pamphlet, newspaper stories and editorials, and other information that the voters would have known at the time. *Con-Way Inc & Affiliates v. Dep’t of Revenue*, 353 Or 616, 627–28, 302 P3d 804 (2013) (“When interpreting a statute adopted through the initiative process, this court will look to other sources of information that were available to the voters at the time the measure was adopted and that disclose the public’s understanding of the measure.”); *State v. Urie*, 268 Or App 362, 366, 341 P3d 855 (2014) (“[W]e determine the voters’ intention by examining the Oregon Voters’ Pamphlet and other information that was available to the public at the time of the vote.”); *State v. Allison*, 143 Or App 241, 251, 923 P2d 1224 (1996) (legislative history of initiated measure includes voters’ pamphlet statements and other “contemporaneous sources,” including newspaper stories, magazine articles, “and other reports from

which it is likely that the voters would have derived information about the initiative”).

The voters’ pamphlet statement for Measure 114 contained 34 statements in favor of the measure, including statements signed by *amici curiae* (or their leaders) and nearly 200 other organizations and individuals.¹³ Each statement in support of the measures sought the very changes that Measure 114 creates, for the very purposes that Measure 114 states. Supporters included district attorneys, veterans, religious institutions and leaders, LGBTQIA+ community leaders, health care providers, mental health leaders, teachers, elected officials, gun owners, and more. They included Black Oregonians, Oregonians from indigenous communities, and Oregonians from other communities of color. Each supporter relied on reasonableness, necessity, and evidence-based research as their basis for supporting the changes provided under Measure 114.

For instance, Oregon military veterans who supported Measure 114 included a statement focused on the law’s public-safety objectives:

“Firearm safety training keeps our military members safe.

“But right now in Oregon, a teenager can walk into a sporting goods store and buy a military-style weapon with a high capacity ammunition magazine without any safety training at all.

¹³ A full copy of the Voters’ Pamphlet Statement for Measure 114, excerpted from the Voters’ Pamphlet for November 8, 2022, Oregon General Election, is included in the appendix of this brief. See App-13–46.

“Measure 114 requires hands-on safety training before someone purchases a firearm. This will go a long way towards reducing accidents and making new gun owners and those around them safer.

“Requiring completed background checks will help keep guns out of the wrong hands.

“Limiting large-capacity magazines, which serve no purpose outside of a war zone, will make mass shootings less deadly, and help protect law enforcement officers who protect us.”

Voters’ Pamphlet, Oregon General Election (Nov 2022) at 81. Gun owners in support of Measure 114 explained that guns can be used “improperly, or maliciously or self-destructively,” and that “responsible gun ownership is supporting common-sense rules like Measure 114 that seek to keep our fellow citizens and families safe from gun violence.” *Id.* at 83. They further explained that Measure 114 would

- “Ensur[e] that new gun owners receive basic firearm safety training to avoid unintentionally harming themselves or others.
- Clos[e] Oregon’s background check loophole, so violent criminals are identified before they can purchase a weapon.
- Institut[e] permit-to-purchase for new gun owners, reducing ‘impulse buys’ by people experiencing their worst moments.
- Ban the sale of large-capacity magazines over ten rounds.”

Id. at 83.

Representatives from communities of color in Oregon urged the passage of Measure 114 to reduce the deadly impact that readily available guns impose on particular groups:

- Black men, just 6% of the US population, make up 52% of all gun violence deaths.
- Young Latinos and Latinas, just 4% of the population, account for 8% of all gun homicide victims.
- In 2020, American Indian/Alaska Native people were 3.7 times more likely to be a victim of firearm homicide compared to their white counterparts. American Indian/Alaska Native males had the highest firearm suicide rate compared to the other races/ethnicities.

Id. at 88. And law enforcement professionals explained the public safety aims of each of the measure’s core provisions:

“Everyone in law enforcement has an interest in keeping guns out of the hands of people intent on doing harm to others. We are all safer when people who own and handle firearms have completed safety training. And we can reduce the number of shootings in our communities by stopping illegal transfers of firearms.

“Measure 114 will make our Oregon communities safer. By requiring all firearm purchasers to complete a criminal background check, we can keep guns out of the hands of people who shouldn’t have them.

“By ensuring that people who want to buy a gun first go through safety training, we can reduce the kinds of accidental shootings that too often end in tragedy.

“And by limiting high capacity magazines—ammunition magazines that allow a shooter to fire 20, 30, or even 50 bullets without needing to reload—we can keep these military-style weapons off our streets.”

Id. at 87 (emphasis in original).

Those statements conveyed to Oregon voters that Measure 114, if approved, would enhance and promote public health and safety. *Cf. Urie*, 268 Or App at 366–67 (reviewing voters’ pamphlet to confirm understanding of intent from text and context). Voters understood that the measure was necessary as a result of

increases in gun sales, increases in gun violence, and increased fear across Oregon of armed intimidation. Measure 114 (preamble). Based on that understanding, a majority of Oregon voters passed Measure 114 into law. Consistent with that vote from Oregon’s electorate, and to address ongoing harms to public safety presented by the current state of firearm regulation, Measure 114 should take effect immediately.

II. Measure 114 promotes public safety.

Oregon voters understood that Measure 114 would reduce gun violence and promote public safety—because it will. In 2021, gun deaths in Oregon reached an all-time high of 670—or about 1.8 deaths per day.¹⁴ Of those 670 deaths, 33 were children and teenagers.¹⁵ In other words, on average in 2021, an Oregonian was killed with a firearm every 13 hours. And 2021 reflected a 38 percent increase in firearm deaths from those of 2012. In the Portland metro area alone, firearm

¹⁴ See U.S. Ctrs. for Disease Control & Prevention: Nat’l Ctr. for Health Stats., *Firearm Mortality by State*, <https://www.cdc.gov/nchs/state-stats/deaths/firearms.html> (last visited Sept 16, 2025).

¹⁵ Johns Hopkins Univ. Ctr. for Gun Violence Solutions, U.S. Gun Violence in 2021 at 34 (June 2023), <https://publichealth.jhu.edu/sites/default/files/2024-01/2023-june-cgvs-u-s-gun-violence-in-2021-v3.pdf>. Nationally, gun violence was the leading cause of death for children and teens ages 1 to 19 in 2020 and 2021. See U.S. Ctrs. for Disease Control & Prevention, *Summary of Initial Findings from CDC-Funded Firearm Injury Prevention Research* (Oct. 5, 2023), <https://www.cdc.gov/violenceprevention/firearms/firearm-research-findings.html>.

homicides increased 207 percent between 2019 and 2022.¹⁶ During the same period, firearm-related violence increased in Salem by 100 percent.¹⁷

Gun violence is also endemic statewide. Although gun violence narratives often focus on metro areas, in Oregon, both rural and urban communities suffer profound impacts. Harney, Klamath, and Josephine Counties experienced the highest firearm death rates from 2011 to 2020, all of which were twice the statewide rate.¹⁸ Rural counties also experience firearm suicide rates at twice the statewide rate, and firearm homicide rates at 1.8 times higher than most urban counties.¹⁹ Although it comprises only 19 percent of the state's population,

¹⁶ Johns Hopkins Univ. Bloomberg School of Public Health, *New Report Highlights U.S. 2022 Gun-Related Deaths: Firearms Remain Leading Cause of Death for Children and Teens, and Disproportionately Affect People of Color* (Sept 12, 2024), available at <https://publichealth.jhu.edu/2024/guns-remain-leading-cause-of-death-for-children-and-teens> (last visited Sept 16, 2025).

Nationally, gun violence was the leading cause of death for children and teens ages 1 to 19 in each year from 2020 through 2022. See U.S. Ctrs. for Disease Control & Prevention, *CDC-Funded Firearm Injury Prevention Research* (July 5, 2024), <https://www.cdc.gov/firearm-violence/data-research/facts-stats/index.html> (last visited Sept 16, 2025).

¹⁷ Salem Police Department, *Salem, Oregon, Gun Violence Problem Analysis* (Aug. 2023), https://s3.documentcloud.org/documents/24168528/salempd_gvpa_report.pdf (last visited Sept 17, 2025).

¹⁸ U.S. Ctrs. for Disease Control & Prevention, National Center for Health Statistics National Vital Statistics System, Mortality 2018-2021 (2021), available at <http://wonder.cdc.gov/ucd-icd10-expanded.html/> (from Multiple Cause of Death Files (2018-2021) as compiled from data provided by the 57 vital statistics jurisdictions through the Vital Statistics Cooperative Program).

¹⁹ *Id.*

Multnomah County experienced 40 percent of all firearm homicides in Oregon in 2021.²⁰

These profound impacts disproportionately harm people of color and those connected to communities of color, because of systemic inequities that those communities face. In Oregon, Black men are more than 15 times more likely to die from firearm homicide than non-Hispanic white men. And although Black men make up only 6 percent of the state’s population, they comprise more than 50 percent of firearm homicide victims.²¹ Since 2005, gun violence has been the leading cause of death for Black youth nationally.²² And intimate partner firearm violence, which disproportionately impacts Indigenous, Black, and Latina women, has increased 22 percent since 2019.

Measure 114’s restrictions—including its restrictions on large-capacity magazines, its background check requirements, and its permit-to-purchase process, are all designed to promote, and actually *will* promote, the health and safety of

²⁰ *Id.* The rate of firearm homicides in Multnomah County increased to 43 percent by 2023. *See* Johns Hopkins Univ. Bloomberg School of Public Health, Center for Gun Violence Solutions (2023), <https://publichealth.jhu.edu/sites/default/files/2025-07/Oregon-factsheet-2023-1.pdf> (last visited Sept 17, 2025).

²¹ *Id.*

²² *See* Johns Hopkins Center for Gun Violence Solutions, *U.S. Gun Violence in 2021* at 6 (June 2023), <https://publichealth.jhu.edu/sites/default/files/2024-01/2023-june-cgvs-u-s-gun-violence-in-2021-v3.pdf>

Oregonians. This includes the physical, mental, spiritual, and social health, all of which are impacted by gun violence.

A. Measure 114's restriction on large-capacity magazines reduces gun violence.

Measure 114's restriction on large-capacity magazines (or "LCMs") targets the accessory of choice favored by mass shooters, which enable those shooters to carry out a mass murder rampage in a matter of seconds before they can be stopped or avoided by escape. *See, e.g., Or. Firearms Fed'n, Inc. v. Brown*, 644 F Supp 3d 782, 806 (D Or 2022) (noting that "large-capacity magazines appear to be the weapon of choice for the commission of mass shootings"). In doing so, such restrictions do not prevent possession of firearms or ammunition needed for self-defense; as the State demonstrated through expert testimony at trial, more than 10 rounds of ammunition are virtually never needed for purposes of lawful self-defense. Restrictions on large-capacity magazines simply serve to protect the public from the dangers of high fatality mass shootings that have become common.

In the deadliest mass shooting event in American history, which occurred at a country music festival in Las Vegas in 2017, 60 people were killed and more than 410 people were shot by a gunman who used 100-round large-capacity magazines from his perch at a Las Vegas hotel-casino. That shooter was armed with technology to make that possible—semi-automatic rifles loaded with large-capacity magazines—and was able to fire 100 rounds in between nine and eleven

seconds. Measure 114 would prohibit the future purchase of magazines over 10 rounds, the very technology the Las Vegas shooter used.

At Sandy Hook Elementary School in 2012, where 20 first graders and six educators were killed by a gunman who opened fire in elementary school classrooms, the gunman used a semi-automatic, AR-15-style weapon, using numerous 30-round magazines.²³ Some students escaped when the gunman paused to reload.²⁴ And in Buffalo in 2022, the gunman used an illegal (in New York State) high-capacity magazine when he killed ten people and injured three more.²⁵ And in Uvalde, Texas, the shooter used an assault rifle with seven 30-round magazines to kill 22 people and injure 17 more.²⁶

²³ Steve Almasy, *Newtown Shooter's Guns: What We Know*, CNN (Dec 19, 2012), <https://www.cnn.com/2012/12/18/us/connecticut-lanza-guns/index.html> (last visited Sept 17, 2025).

²⁴ Alice Gainer & Chris Wragge, *Sandy Hook School Shooting Survivors Graduate From High School*, CBS News (June 12, 2024, 5:58 PM), <https://www.cbsnews.com/newyork/news/sandy-hook-survivors-graduating/> (last visited Sept 17, 2025) (“She escaped when the gunman paused to reload.”).

²⁵ Sarah Taddeo, *What Kind of Gun was Used in the Buffalo Shooting? What We Know*, NY Democrat & Chronicle (May 15, 2022, 6:09 PM), <https://www.democratandchronicle.com/story/news/2022/05/15/buffalo-shooting-gun-used-ar-15-suspect-payton-gendron-purchased-vintage-firearms-endicott/9786647002/> (last visited Sept 17, 2024).

²⁶ Mark Despart, *“He Has a Battle Rifle”: Police Feared Uvalde Gunman’s AF 15*, The Texas Tribune (Mar 20, 2023, 5:00 AM), <https://www.texastribune.org/2023/03/20/uvalde-shooting-police-ar-15/> (last visited Sept 17, 2025).

Without question, large-capacity magazines are the weapon of choice for mass shooters. Since 1980, the United States has experienced at least 106 mass shootings (three or more fatalities not including the shooter) where the shooter used large-capacity ammunition magazines containing more than 10 rounds.²⁷ And this number is likely an undercount, as there is no clear or consistent reporting on this data; even for high-profile shootings, information on magazine capacity generally is neither released nor reported.²⁸ Since the Sandy Hook massacre, in 2012, the United States has experienced at least the following incidents in which large-capacity magazines were used:²⁹

Sandy Hook Elementary School	Dec 14, 2012	28 dead (including shooter)	30-round magazines
Home in North Carolina	May 8, 2013	4 dead (including shooter)	3 30-round magazines
Santa Monica	June 7, 2013	6 dead (including shooter)	40 30-round magazines
Florida Apartment Complex	July 26, 2013	6 dead	17-round magazine

²⁷ Violence Policy Center, *Mass Shootings in the United States Involving Large Capacity Ammunition Magazines* (updated Aug 2025), available at https://vpc.org/fact_sht/VPCshootinglist.pdf (last visited Sept 17, 2025).

²⁸ *Id.*

²⁹ This summary is excerpted from *Mass Shootings in the United States*, *supra* n 25. The full fact sheet is included in the appendix of this brief. See App-47–63.

Emanuel African Methodist Episcopal Church	June 17, 2015	9 dead	13-round magazines
Navy Operational Support Center	July 16, 2015	6 dead (including shooter); 2 wounded	Multiple 30-round magazines
Umpqua Community College	Oct 1, 2015	10 dead (including shooter); 8 wounded	15-round magazine
San Bernardino Inland Regional Center	Dec 2, 2015	14 dead; 21 wounded	4 30-round magazines
Kalamazoo Parking Lots	Feb 20, 2016	6 dead; 2 wounded	Extended magazine
Excel Industries	Feb 25, 2016	4 dead (including shooter); 14 wounded	30-round magazine
Pulse Nightclub	June 12, 2016	50 dead (including shooter); 53 wounded	Multiple 30-round magazines, some taped together for faster reloading
Dallas Law Enforcement Shooting	July 7, 2016	5 law enforcement officers dead 9 officers wounded 2 citizens wounded	Multiple large capacity ammunition magazines
Baton Rouge Law Enforcement Shooting	July 17, 2016	3 law enforcement officers dead 3 officers wounded	Large capacity ammunition magazines
House Party in Washington	July 30, 2016	3 dead 1 wounded	30-round magazine
Cascade Mall	Sept 23, 2016	5 dead	25-round magazine

Marathon County, Wisconsin	Mar 22, 2017	5 dead (including shooter)	15-round magazine
UPS Distribution Center	June 14, 2017	4 dead (including shooter) 2 wounded	30-round magazine
Route 91 Harvest Festival	Oct 1, 2017	59 dead (including shooter); 489 injured	12 100-round magazines Multiple 25-round magazines Multiple 40-round magazines
First Baptist Church of Sutherland Springs	Nov 5, 2017	27 dead (including shooter); 20 wounded	15 30-round magazines
Home in New Jersey	Dec 31, 2017	4 dead	15-round magazine
Marjory Stoneman Douglas High School	Feb 14, 2018	17 dead; 17 wounded	8 30- and 40-round magazines
Yountville Veterans Home	Mar 9, 2018	4 dead (including shooter)	20-round magazine
Waffle House	Apr 22, 2018	4 dead; 4 wounded	30-round magazine
Tree of Life Synagogue	Oct27, 2018	11 dead 7 wounded	2 20-round magazines 1 40-round magazine 3 15-round magazines
Borderline Bar & Grill	Nov 7, 2018	12 citizens dead (including shooter)	8 26-round magazines

		1 law enforcement officer dead	
Chicago Mercy Hospital	Nov 19, 2018	4 dead (including shooter)	Multiple 17-round magazines
Virginia Beach Municipal Center	May 31, 2019	13 dead (including shooter) 6 wounded	Extended magazines
Gilroy Garlic Festival	July 28, 2019	4 dead (including shooter) 13 wounded	75-round drum magazine 3 40-round magazines
El Paso Walmart	Aug 3, 2019	23 dead 23 wounded	Large capacity ammunition magazines
Dayton	Aug 4, 2019	10 dead (including shooter) 27 wounded	100-round drum magazine
Texas, Multiple Locations	Aug 31, 2019	8 dead (including shooter) 25 wounded	4 30-round magazines
Adams Street	Jan 24, 2021	6 dead 1 wounded	30-round magazine
Atlanta Area Massage Spas	Mar 16, 2021	8 dead 1 wounded	17-round magazine
King Soopers Grocery Store	Mar 22, 2021	10 dead	Large capacity magazine, at least 16 rounds
FedEx Facility	Apr 15, 2021	8 dead 4 wounded	60-round magazine
Santa Clara Valley Transportation Authority	May 26, 2021	10 dead (including shooter)	11 12-round magazines 15-round magazines

Oxford High School	Nov 30, 2021	4 dead 7 wounded	2 15-round magazines
Sacramento Church	Febr 28, 2022	5 dead (including shooter)	Illegal 30-round magazine
Tops Supermarket	May 14, 2022	10 dead 3 wounded	Multiple illegal 30-round magazines
Robb Elementary School	May 24, 2022	22 dead (including shooter) 17 wounded	7 30-round magazines
Highland Park Fourth of July Parade	July 4, 2022	7 dead; 46 wounded	3 30-round magazines
Greenwood Park Mall	July 17, 2022	4 dead (including shooter); 3 wounded	6 30-round magazines
Club Q	Nov 19, 2022	5 dead; 18 wounded	1 60-round drum magazine Multiple 40-round magazines
Star Ballroom Dance Studio	Jan 21, 2023	12 dead (including shooter); 9 wounded	30-round magazine
Michigan State University	Febr 13, 2023	4 dead (including shooter); 5 wounded	2 13-round magazines
The Covenant School	Mar 27, 2023	7 dead (including shooter)	At least 2 30-round magazines
Dollar General	Aug 26, 2023	4 dead (including shooter)	Large capacity magazine
Schemengees Bar and Grill and Sparetime	Oct 25, 2023	19 dead (including shooter); 13 wounded	Large capacity magazine

Recreation Bowling Alley			
University of Nevada Las Vegas	Dec 6, 2023	3 dead; 1 wounded	11 17-round magazines
Galway Drive Charlotte, NC	Apr 29, 2024	4 dead, 7 wounded	3 30-round magazines
345 Park Ave. New York, NY	July 28, 2025	5 dead (including shooter); 1 wounded	Large capacity magazine

Magazine capacity is directly related to the lethality of a weapon; as the State explained at trial, and as common sense dictates, a firearm’s capacity is what determines the number of shots that can be fired within a given time without having to pause to reload. These horrifying onslaughts—all completed using high-capacity magazines—could occur anywhere in the United States, and Oregon is certainly no exception. Indeed, they *have* happened in Oregon—at Umpqua Community College in 2015, a shooter used a 15-round magazine to kill 10 people and wound eight more.³⁰ This type of human disaster is precisely what Measure 114 is designed to prevent.

B. Measure 114’s permit-to-purchase requirement reduces gun violence.

Permit-to-purchase laws—like the one passed into law by Measure 114—are among the most effective strategies for reducing gun violence in all its forms.

³⁰ Dirk Vanderhart et al., *Oregon Shooting at Umpqua College Kills 10, Sheriff Says*, NY Times (Oct 1, 2015), <https://www.nytimes.com/2015/10/02/us/oregon-shooting-umpqua-community-college.html> (last visited Sept 17, 2025).

Experiences in other states make this clear. For instance, after implementing its firearm licensing law, Connecticut saw significant reductions in the rates of both firearm homicides and firearm suicides by 28 percent and 33 percent, respectively.³¹ By contrast, Missouri's repeal of its firearm licensing law had the opposite effect, increasing firearm homicides by 47 percent and firearm suicides by 23 percent.³² In Oregon, 71 percent of all homicides, and 57 percent of all suicides, occurred by the use of a firearm in 2023.³³

C. Measure 114's closure of the Charleston Loophole reduces gun violence.

Requiring background checks on all firearm sales also reduces gun violence. States like Oregon, which have gone beyond federal law by requiring background checks for unlicensed gun dealer sales, have lower homicide and suicide rates.³⁴

³¹ See, e.g., Alexander D. McCourt et al., *Purchaser licensing, point-of-sale background check laws, and firearm homicide and suicide in 4 US states, 1985–2017*, 110 Am. J. Pub. Health 1546 (Oct. 2020), <https://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2020.305822>; Daniel Webster, et al., *Effects of the repeal of Missouri's handgun purchaser licensing law on homicides*, 91 J. Urban Health 293 (Apr. 2014), <https://pubmed.ncbi.nlm.nih.gov/24604521/>.

³² McCourt, *Purchaser licensing*, *supra* n 10; see also <https://publichealth.jhu.edu/sites/default/files/2023-11/impact-of-handgun-purchaser-licensing-white-paper-2022a11y.pdf>.

³³ Johns Hopkins Univ. Ctr. For Gun Violence Solutions, *Latest Oregon Gun Deaths Data (2023)*, <https://publichealth.jhu.edu/center-for-gun-violence-solutions/gun-violence-data/state-gun-violence-data/oregon> (last visited Sept 17, 2025).

³⁴ See Michael Sigel & Claire Boine, Rockefeller Inst. of Gov't, *What Are the Most Effective Policies in Reducing Gun Homicides?* (Mar. 29, 2019),

Requiring full-fingerprint background checks, training, and assessment of other factors before guns can be purchased, and barring completion of sales until point-of-sale background checks are completed, will provide considerable protections to Oregonians. Although Oregon’s background check requirement predates Measure 114, *see* ORS 166.412(2)(d), 166.435, 166.438, the initiative strengthened those protections by closing the so-called “Charleston Loophole,” which allows a gun sale to proceed three business days after the background check is initiated, even if the check is incomplete.³⁵

In that respect, Measure 114’s background check provisions are critical, and implementation is necessary to close the loophole in existing Oregon law. The data bear this out: In 2022, 11,649 of the background checks in Oregon took more than three days from the date of initiation to complete.³⁶ Although the exact number of those sales that were completed to buyers prohibited from purchasing firearms is not available, without Measure 114, when a denial took longer than three days, nothing legally prevented the seller from transferring a deadly weapon to a prohibited purchaser. That problem continues today—every day that Measure

<https://rockinst.org/wp-content/uploads/2019/03/3-28-19-Firearm-Laws-Homicide-Deaths-Brief.pdf>.

³⁵ *See* Measure 114 §§ 6(3)(c), 7(3)(d), (8)(3)(c); Brady United, *Gun Sale Loopholes*, <https://www.bradyunited.org/resources/issues/gun-sales-loopholes> (last visited Sept 17, 2025) (describing Charleston Loophole).

³⁶ Oregon State Police, *Firearms Instance Check System (FCIS) Program Overview* (2023) at 12.

114 remains enjoined means that more prohibited purchasers can slip through Oregon's Charleston Loophole.

III. The trial court applied the wrong legal standard.

Measure 114 is constitutional for all the reasons the State and the Court of Appeals explain. But *amici curiae* seek to make the additional point that, as the record in the trial court makes clear, the trial court applied the wrong legal standard. The trial court's examination of LEVO volunteer Joseph Paterno makes that very clear.

A court's analysis of Plaintiffs' facial challenge to Measure 114 "is limited to whether the [law] is capable of constitutional application in any circumstance." *Christian*, 354 Or at 40 (citing *State v. Sutherland*, 329 Or 359, 365, 987 P2d 501 (1999)) ("For a statute to be facially unconstitutional, it must be unconstitutional in all circumstances, i.e., there can be no reasonably likely circumstances in which application of the statute would pass constitutional muster."). So long as it is, the law does not violate Article I, section 27.

Here, the trial court did not apply that standard at all, and instead undertook a speculative inquiry focused on whether the law could *ever* be applied *unconstitutionally*. That much is clear from the colloquy between the trial court and Joseph Paterno, a volunteer with LEVO who presented testimony at trial. During that colloquy, the trial court focused not on whether the law could

constitutionally be applied, but on whether, if at all, it could *unconstitutionally* be applied in circumstances the trial court speculated might arise.

The trial court started with the ban on future purchases of large-capacity magazines:

“THE COURT: Okay. So are you aware that there are – that there’s differences in policing in America depending on what polity you’re a part of? In other words, do you believe that there are, um, differences in how different racial groups are policed in America?

“MR. PATERNO: Yes.

“THE COURT: What is your belief around that?

“MR. PATERNO: Well, I think that the minorities are a little bit more targeted than anybody, especially the black – black folks in our communities.

“THE COURT: I’m gonna have you go to 102. This is raised by the – by the defendants in terms of the reasonableness of the policy. And I’m gonna talk to him about the reasonableness of the policy from his perspective.

* * * * *

“THE COURT: Did you consider, during the process of developing this ballot measure, the impact that might have on that question of disparate policing.

“MR. PATERNO: Well, again, I did not write this. But, you know, it was done by our legislative team and I’m sure that they did.

* * * *

“THE COURT: Did you consider what this would mean in terms of disparate policing in America? Or in Oregon, I would say.

“MR. PATERNO: Again, I’m not sure I understand what you’re asking.

“THE COURT: All right. Let me ask you a hypothetical * * * Hypothetical one. An older white reverend doctor is driving down the road and he sees a magazine on the side of the road. He stops. Gets out of his vehicle. Picks up that magazine. Realizes it’s a large capacity magazine. Puts it on the front seat of his vehicle to drive it to take it to a police station. * * * * As he’s driving down the road, he comes to a stop sign but he rolls through the stop sign without coming to a stop and he’s pulled over by a police officer. * * * * [T]he police officer comes up to the window says you rolled through a stop sign. What is that? It looks like a large capacity magazine. It is. I just found it. Please take this. I was gonna bring it to the police station and the officer accepts that. Do you agree that’s a hypothetical that could happen under this law?

“MR. PATERNO: Possibly, yes.
“

THE COURT: Do you agree that it’s a hypothetical that could occur?

“MR. PATERNO: Yes.

* * * *

“THE COURT: A young black pastor is driving down the road and he sees a large-capacity magazine sitting on the – on the curb and he pulls over, picks it up and puts it in the front seat of his vehicle. * * * * And he drives down the road comes, he comes to a stop sign and he rolls through that stop sign. * * * And the – he gets pulled over by a police officer * * * The police officer comes up to the window and says you rolled through a stop sign. That looks like a large-capacity magazine. I want you to get out of the vehicle. I’m placing you under arrest. Look, I just picked it up. I want to give it to you. Officer says but you’re under a rest. Do you agree that could happen here?

“MR. PATERNO: Yes.

“THE COURT: And that by that arrest, he can no longer surrender that large-capacity magazine to the officer. He has to face the full prosecution. Do you agree?”

“MR. PATERNO: Yes.

* * * *

“THE COURT: All right. Thank you. * * * Do you think that’s reasonable?”

“MR. PATERNO: No. I would hope that they would be treated equally.

“THE COURT: You would hope, but the law doesn’t require it, does it?”

“MR. PATERNO: No.”

Tr. 1294–1300. The trial court then undertook the same, irrelevant inquiry as to the law’s permit-to-purchase provisions:

“THE COURT: This is the Permit to Purchase Program that starts on the other page; correct?”

“MR. PATERNO: Yes.

* * * *

“THE COURT: I assume, based upon your background, that you don’t really know what the phrase “reasonable grounds” means. Is that accurate or do you know what it means as a legal construct?”

“MR. PATERNO: No, I’m – I’m not an attorney, for sure.

“THE COURT: Okay. We have different Constitutional bases upon which people’s rights can be impinged upon. * * * And so you can ask for consent if you go up to a vehicle, if you have reasonable suspicion that something is happening in that vehicle, you can ask can

I get into your vehicle. * * * * In order to get into the vehicle without consent you have to have probable cause to believe a crime is occurring which is a higher standard of proof. * * * * And reasonable grounds is in between those two things. Reasonable grounds was created as a doctrine to address search of probationers. Did you know that?

“MR. PATERNO: No.

“THE COURT: And that what they – what the – what the law says, what the courts have said in the 1980s is once you’ve been convicted of a crime you have a lesser right to privacy than you do if you haven’t been convicted of a crime. * * * * And that, uh, if you’re on probation, an officer can search your property with just reasonable grounds to believe something’s wrong inside. * * * * Does that make sense?

“MR. PATERNO: Yes.

“THE COURT: Okay. So let’s talk about the hypothetical that I want to talk about on subsection (c). It’s highlighted on there for you as well.

“MR. PATERNO: Okay.

“THE COURT: And have you read that, then? What (c) says is: Does not present reasonable grounds for a permitting agent to conclude that the applicant has been or is reasonably likely to be a danger to self or others or to the community at large, as a result of the applicant’s mental or psychological state. Did you read that portion before you started to, um, support this measure?

“MR. PATERNO: Yes.

“THE COURT: So that’s -- let’s talk about a couple of hypotheticals regarding that, then. Okay?

“MR. PATERNO: Okay.

* * * *

“THE COURT: [H]ypothetical 3 is this * * * * [A]n older white rabbi decides to go in and get a gun permit because he decides he wants to get a gun. And then he’s asked by the permitting agent why are you getting a gun? And he says to defend myself. And then he’s granted a firearm because the officer believes he doesn’t present a reasonable likelihood of danger to self or others or the community at large. * * *

* Perfectly fine.

“MR. PATERNO: Yes.

“THE COURT: A younger middle eastern rabbi goes in to get a permit for a firearm, middle eastern descent rabbi goes in to get a firearm and the permitting agent asks why are you getting this firearm? And the rabbi says to defend myself. And the off – the permitting agent then says to defend yourself from what? I’m under threat. What type of threat are you under? I feel like there are people who want to hurt me. Under this rule, the permitting agent could say that was an act of an individual who is dangerous. Would you agree?

“MR. PATERNO: I – I’m not as sure – I’m not sure I agree with that, no.

“THE COURT: Taking a gun to use it against other people could be a danger to others. * * * * He says it’s for self-protection, but the officer deems that it’s a danger – that that – that those answers show that he’s a danger to others and doesn’t give him a permit.

“MR. PATERNO: Okay.

“THE COURT: Do you agree this that could happen under this law?

“MR. PATERNO: That could, but I think he has some recourse to that.

“THE COURT: He can go later to a judge.

“MR. PATERNO: Yes.

“THE COURT: And the judge could say – he could make an offer that the reasonable grounds – it’s a very low standard – were not met by the permitting agent. Is that what you’re saying?”

“MR. PATERNO: Yes.

“THE COURT: Okay. I understand. And I agree that that’s true. * *
* But those two people with the same exact same identical interests in getting a firearm could be treated disparately under this law * * * based upon how they present to a permitting agent. * * * * Correct?”

“MR. PATERNO: Yes. But they do have some recourse is what were saying.

“THE COURT: Right. The judge can say, well, that’s not reasonable. If, in fact, he doesn’t take it as a – a race-neutral determination; right?”

“MR. PATERNO: Mm-hmm. Yes.

“THE COURT: Okay. Thank you.”

Tr. at 1302–05.

The trial court’s examination of Mr. Paterno not only was improper and irrelevant (there are no allegations in this case that Measure 114 unconstitutionally discriminates between classes of Oregonian),³⁷ but also, more fundamentally,

³⁷ Measure 114 also contains protections that seek to prevent the sort of discriminatory application the trial court imagined. The measure requires Oregon’s Department of State Police to publish annually “a report indicating for each county the number of applications made to any permit agent, the number of permits-to-purchase issued and the number of permits-to-purchase denied and the reasons for denial. The department may, by rule, include any additional information that it determines would be helpful to ensuring the permit-to-purchase process is being administered in a consistent and equitable manner.” Measure 114 § 4(2)(c) (emphasis added).

demonstrates the erroneous legal standard the trial court applied. Rather than determine whether Measure 114 “is capable of constitutional application in any circumstance,” *Christian*, 354 Or at 40, the trial court instead searched for *any possible circumstance* in which Measure 114 may be *unconstitutionally* applied or construed. This was legal error that requires reversal.³⁸

IV. The trial court impermissibly substituted its policy preferences for those of the voters who passed Measure 114.

Amici wish to make one final point, although it potentially is clear both from the trial court’s ruling and the State’s Opening Brief. The trial court plainly disagreed with the practical wisdom of Measure 114, the necessity of its provisions, and the aims it seeks ultimately to serve. But as this Court repeatedly has acknowledged, the trial court was not free to construe Article I, section 27, or address the constitutionality of Measure 114, “in a way that might seem to [it] to be sound public policy.” *State v. Hirsch/Friend*, 338 Or 622, 632, 114 P3d 1104 (2005) (citing *Stranahan v. Fred Meyer, Inc.*, 331 Or 38, 66 n 19, 11 P3d 228 (2000)). Likewise, it was not free to substitute its own policy preferences for those of Oregon’s electorate. *See Burke*, 352 Or at 433. By imposing a legal standard that Oregon courts have never applied under Article I, section 27, *see* Order at 7

³⁸ The trial court also erred in applying its own new “intermediate scrutiny” test under Article I, section 27, which is not the test that this Court announced in *Christian*. *Amici* agree with the State’s argument on that issue and do not restate those arguments here.

(creating new “intermediate scrutiny” test), and by minimizing the significance, *in the Court’s view*, of the thousands of firearm-related deaths that the United States has faced over the past four decades, *see id.* at 40 (“The historic number of casualties from mass shooting events is staggeringly low in comparison to the media’s sensationalized coverage of the events”), the trial court did exactly that. This was impermissible and requires reversal.

CONCLUSION

For the foregoing reasons, and for the additional reasons set forth in the State’s Brief on the Merits, *amici curiae* respectfully urge the Court to affirm the decision of the Court of Appeals and reverse the trial court’s judgment. Measure 114 is constitutional and should take effect immediately.

DATED this 18th day of September, 2025.

Respectfully submitted,

By: s/ Nadia H. Dahab
Nadia H. Dahab, OSB No. 125630
 SUGERMAN DAHAB
 101 SW Main Street, Suite 910
 Portland, OR 97204
 Tel: (503) 228-6474
 nadia@sugermadahab.com

*Attorneys for Amici Curiae Lift Every Voice Oregon,
 Ceasefire Oregon, Central Oregon Gun Safety
 Advocates, Jewish Federation of Greater Portland,
 League of Women Voters of Oregon, Muslim
 Educational Trust, Ecumenical Ministries of Oregon,
 VIVA Inclusive Migrant Network, and Albina Ministerial
 Alliance*