IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

RED WINE & BLUE, and OHIO ALLIANCE FOR RETIRED AMERICANS,	:	
	:	**Case No. 1:25-cv-01760**
Plaintiffs,	:	
	:	**Judge Solomon Oliver, Jr.**
v.	:	
	:	**Mag. Judge James E. Grimes, Jr.**
FRANK LAROSE, in his official capacity as Ohio Secretary of State; and CHARLES L. NORMAN, in his official capacity as Ohio's Registrar of Motor Vehicles,	:	
Defendants.	:	

DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

INTRODUCTION

Plaintiffs' whole case rests on a failed premise: they are litigating against a chimerical version of H.B. 54 that does not exist. H.B. 54 does not, as Plaintiffs repeatedly claim, require documentary proof of citizenship to register to vote at the BMV. Nothing about H.B. 54 limits voter registration at all. It merely requires deputy registrars to offer—proactively—voter registration to confirmed citizens. Anyone remains free to walk into a BMV office, request a voter registration application, complete it, and submit it—all without providing DPOC. This fundamental error of statutory interpretation infects the entirety of Plaintiffs' Complaint, leading them to fear that the version of H.B. 54 that lurks in the shadowy back alleys of their minds stands ready to attack them.

Now, over eight months after filing their Complaint, Plaintiffs seek emergency relief from this imaginary law. But Plaintiffs are unlikely to succeed on the merits because they lack standing. Roughly a year after H.B. 54 took effect, Plaintiffs remain unable to identify a single person denied the opportunity to register to vote at the BMV for failure to produce DPOC. This is unsurprising because H.B. 54 requires no such thing. Consequently, H.B. 54 does not violate the NVRA by requiring more than the minimum information necessary to assess eligibility. Nor do the equitable factors demand the relief Plaintiffs seek here: affirmatively offering voter registration forms to confirmed noncitizens. Plaintiffs' Motion should therefore be denied.

BACKGROUND

Ohioans wishing to register to vote do not need to present documentary proof of citizenship ("DPOC"). Ohio's voter registration form simply requires an applicant to attest citizenship under penalty of election falsification. Ex. A, King Decl. Ex. A-6.

The BMV, however, stands in a unique position vis-à-vis DPOC. Unlike elections officials, the BMV elicits DPOC or documentary proof of noncitizenship from every applicant for a driver's license, state identification card, or other credential. First-time applicants for Ohio credentials must

present documents sufficient to establish five fields of information relating to the applicant's identity: full name, address, date of birth, social security number, and proof of legal presence in the United States. King Decl. ¶ 8; Ohio Admin. Code § 4501:1-1-21(C). The BMV publishes lists of acceptable documents for each of these five fields. King Decl. ¶ 9, Exs. A-1, A-2. Relevant here, birth certificates, consular reports of birth abroad, U.S. passports, U.S. passport cards, and U.S. naturalization documents establish both citizenship and proof of legal presence in the United States. King Decl. ¶ 10; Ohio Admin. Code § 4501:1-1-21(G)(1)–(5). U.S. Citizenship and Immigration Services documents establish noncitizenship along with legal presence. King Decl. ¶ 10; Ohio Admin. Code § 4501:1-1-21(G)(6). Alternative documents may be used to establish one or more of the five fields on a case-by-case basis. King Decl. ¶ 17; Ohio Admin. Code § 4501:1-1-21(Q). These determinations are made by the BMV, typically in real time while the applicant is at a deputy registrar's office. King Decl. ¶ 17.

The five-field requirement applies only to first-time applicants for Ohio credentials, not to those seeking to renew a current credential or one that has been expired for less than six months. King Decl. ¶¶ 28–29. But because first-time applicants must present documentary proof of legal presence, any Ohioan with a non-expired credential already presented proof of legal presence in the United States to a deputy registrar. King Decl. ¶ 30, Ex. A-3 at 10. Stated differently, there is no Ohioan with a credential eligible for renewal whose citizenship is unknown. BMV records classify every Ohioan with a current credential as a citizen or a noncitizen. King Decl. ¶ 30. This is true irrespective of the challenged portion of H.B. 54.

The National Voter Registration Act requires that every "motor vehicle driver's license application (including any renewal application) submitted" to the BMV "shall serve as an application for voter registration." 52 U.S.C. § 20504(a)(1). Pursuant to that command, the BMV's point-of-sale system for credentialing transactions, BASS, offers applicants the opportunity to register to vote

during the transaction. If, as part of the transaction, a first-time applicant presents proof of legal presence that also establishes citizenship (i.e., birth certificates, consular reports of birth abroad, U.S. passports, U.S. passport cards, and U.S. naturalization documents), BASS prompts the deputy registrar to ask the applicant if the applicant wishes to register to vote or to update an existing registration. King Decl. ¶ 21, Ex. A-5 at 62. The same is true when the BMV's records show that an applicant seeking renewal is a citizen. King Decl. ¶ 31. If an applicant presents proof of legal presence that also establishes noncitizenship (i.e., an immigration document from USCIS), BASS does not prompt the deputy registrar to offer voter registration. King Decl. ¶ 24.

Upon inquiry, if an applicant wishes to register or to update an existing voter registration, the deputy registrar marks that response in BASS. At the end of the credentialing transaction, BASS displays the following affirmation to the applicant: "I declare under penalty of election falsification I am a citizen of the United States, will have lived in this state for 30 days immediately preceding the next election, and will be at least 18 years of age at the time of the general election." King Decl. ¶¶ 21, 31, Ex A-5 at 63. If the applicant so affirms and signs, BASS electronically transmits the voter registration or updated registration to the Secretary of State for further distribution to the relevant county board of elections. King Decl. ¶¶ 21, 31, Ex. A-5 at 63–64.

Of course, not every trip to the BMV is a successful one. For example, a first-time applicant for a credential might not have the documents necessary to establish the five fields. A woman seeking a driver's license with her new name might have neglected to bring proof of her name change. Applicants who fail to bring the necessary documents (or whose applications are otherwise deficient) are not permitted to complete or submit their applications through BASS. King Decl. ¶¶ 15, 32. As a result, the credentialing transaction does not progress to the stage in which the deputy registrar inquires about voter registration. The incomplete applications are summarily deleted from BASS and are never submitted. King Decl. ¶¶ 15, 32.

For these unsuccessful applicants, as well as any BMV customer doing non-credential-related business, deputy registrars stock paper registration forms prescribed by the Secretary of State. King Decl. ¶ 25, Ex. A-5 at 65. If a BMV customer does not—or cannot—complete a credentialing transaction through BASS, the customer can nonetheless fill out a paper registration form and return it to the deputy registrar. King Decl. ¶¶ 25–26 Ex. A-5 at 65, Ex. A-6. Deputy registrars then transmit these forms to the relevant county board of elections. King Decl. ¶ 27, Ex. A-5 at 65–68, Ex. A-7. Like all registration forms in Ohio, the paper forms available at the offices of deputy registrars require the applicant to attest to the applicant's citizenship under penalty of election falsification. King Decl. Ex. A-6. Documentary proof of citizenship is not required and is not solicited by the deputy registrar. King Decl. ¶ 26, Ex. A-6.

In March 2025, the Ohio General Assembly, through its biennial transportation appropriations bill, Am. Sub. H.B. 54, amended Ohio Revised Code § 3503.11(A)(1). In its amended form, § 3503.11(A)(1) requires a registrar or deputy registrar to offer a voter registration application to any applicant who "presents proof of United States citizenship"[1] or had previously done so. *Id.* Notably, § 3503.11(A)(1) uses the language of obligation, not prohibition; it imposes a requirement on deputy registrars to offer a voter registration application to proven citizens. *Id.* It does not forbid deputy registrars from offering voter registration forms to anyone else, including BMV customers who lack the documents necessary to obtain Ohio credentials, as well as BMV customers engaged in non-credential transactions.

Plaintiffs, Red Wine & Blue and the Ohio Alliance for Retired Americans, are two organizations who allege they and their members will be harmed by H.B. 54. Specifically, they allege

[1] A later bill, S.B. 293, defined "proof of United States citizenship" for purposes of § 3503.11. The new definition appears in Ohio Rev. Code § 3501.01(EE). The law became effective on March 20, 2026, during the pendency of this case.

H.B. 54 will make "it hard for their members to make their voices heard through the ballot box" and thus "hinder [their] missions." Compl. ¶ 12, Dkt. 1 at PageID 4. Additionally, RWB identifies two individual members who plan to register to vote through the BMV but wish to do so without producing documentary proof of citizenship. Compl. ¶¶ 29–30, Dkt. 1 at PageID 9

Plaintiffs filed their Complaint in August 2025. *See generally* Compl., Dkt. 1. Defendants moved to dismiss the Complaint for lack of subject-matter jurisdiction in September. *See generally* Dkt. 15. After filing their Opposition to that Motion, Plaintiffs sat idle over six months and two elections, then suddenly urged the Court in April to issue preliminary injunctive relief. Although Plaintiffs initially sought to enjoin the transportation appropriations bill in its entirety, *see* Dkt. 29-1 at PageID 376 (asking the Court to "preliminarily enjoin HB 54"), Plaintiffs have since clarified that they "seek only to enjoin the small portion of HB 54 that imposes a DPOC requirement," Dkt. 33 at PageID 1090 n.1. Defendants' response therefore addresses the narrowed request only.

LAW AND ARGUMENT

To obtain a preliminary injunction, Plaintiffs must show: (1) they have a strong likelihood of success on the merits; (2) they would suffer irreparable injury absent the injunction; (3) issuance of an injunction would not cause substantial harm to others; and (4) the public interest would be served by issuance of an injunction. *See Leary v. Daeschner*, 228 F.3d 729, 736 (6th Cir. 2000).

A. Plaintiffs are unlikely to succeed on the merits because (1) they lack standing; and (2) H.B. 54 does not violate the NVRA.

1. Under current precedent, Plaintiffs lack organizational or associational standing, and the new evidence attached to their Motion does not alter this reality.

As Defendants explained in greater detail in their Motion to Dismiss and Reply, Plaintiffs lack standing, either as organizations or on behalf of their members. Defs.' Mot. Dismiss at 6–16, Dkt. 15 at PageID 115–25; Defs.' Reply at 3–15, Dkt. 26 at PageID 267–79. And because standing is a prerequisite to jurisdiction, they are consequently unlikely to succeed on the merits.

To summarize, Plaintiffs lack organizational standing because they allege no concrete, particularized injury to the core functions of their businesses caused by H.B. 54. Instead, they offer only speculative fears based on the perceived effects of H.B. 54 and their voluntary choices to divert resources or alter their practices in response to those fears. As recent case law confirms, these are not legally cognizable injuries. *See FDA v. All. for Hippocratic Medicine*, 602 U.S. 367, 394–96 (2024) ("*Havens* was an unusual case, and this Court has been careful not to extend the *Havens* holding beyond its context."); *Tennessee Conf. of the NAACP v. Lee*, 139 F.4th 557, 563–65 (6th Cir. 2025); *see also Wis. Voter All. v. Millis*, 166 F.4th 627, 639 (7th Cir. 2026) ("In *Hippocratic Medicine*, the Supreme Court cabined Havens to its unique facts." (Brennan, J., concurring) (citing *All. for Hippocratic Medicine*, 602 U.S. at 394–96)). H.B. 54 does not "directly affect[] and interfere[]" with Plaintiffs' "core business activities." *All. for Hippocratic Medicine*, 602 U.S. at 395. As in *Equality State Policy Center v. Gray*, Defs.' Mot. Dismiss Ex. A, Dkt. 15-1, Plaintiffs' claim that the amendments affect their advocacy work is not a cognizable injury because voluntarily altering pre-existing activities is not enough. Moreover, any alleged organizational harms are neither traceable to H.B. 54 nor redressable by this Court: these speculative harms depend on the independent decisions of others about whether to register to vote.

Plaintiffs' associational standing arguments fare no better. Their two identified members assert moral objections to producing proof of citizenship, but ideological disagreement is not a valid injury. *See All. for Hippocratic Medicine*, 602 U.S. at 381; *Tennessee Conf. of the NAACP*, 139 F.4th at 562. Neither member claims she lacks the necessary documents or has been denied registration. And because Ohio law independently requires the same documents to obtain a driver's license, any asserted burden is neither caused by H.B. 54 nor redressable by an injunction against H.B. 54. *See Murthy v. Missouri*, 603 U.S. 43, 68 n.8 (2024); *Miller v. City of Wickliffe*, No. 1:12-CV-1248, 2015 U.S. Dist. LEXIS 170196, at *15–16 (N.D. Ohio Dec. 21, 2015). In fact, one of the two identified

members successfully registered to vote while this case was pending, obviating any potential standing. Pls.' Opp'n Mot. Dismiss at 9 n.3, Dkt. 25 at PageID 251.

Plaintiffs' Motion offers little additional evidence to establish standing.[2] They do not identify any members who have been denied the opportunity to register to vote at the BMV—despite H.B. 54 taking effect nearly a year ago. Instead, they allege that unidentified members of their organizations "have been turned away at the BMV because they were told that they did not have appropriate documents. Some members have had to travel to the BMV multiple times after being told they lacked required documents *to obtain or update their driver's license*." Mullen Decl. ¶ 10, Dkt. 29-2 at PageID 382 (emphasis added). But this case is not about obtaining a driver's license. Being "turned away at the BMV" for lacking the proper documents for driver's license is not the same as being denied an opportunity to register to vote. If H.B. 54 is the boogeyman Plaintiffs believe it to be, they should be able to easily identify a member who has been harmed. It is telling that they have not done so.

In the absence of any legally cognizable injury, Plaintiffs again attempt to establish psychic injury. They allege their members are "deeply concerned" about H.B. 54. Mullen Decl. ¶ 8, Dkt. 29-1 at PageID 382; *accord* Wernet Decl. ¶ 7, Dkt. 29-3 at PageID 386. But "concerned bystanders" do not have Article III standing. *All. for Hippocratic Med.*, 602 U.S. at 382 (quoting *Allen v. Wright*, 468 U.S. 737, 756 (1984)). And regardless, those fears are based on "the new proof-of-citizenship requirements imposed by House Bill 54." Mullen Decl. ¶ 9, Dkt. 29-2 at PageID 382; *accord* Wernet Decl. ¶ 8, Dkt. 29-3 at PageID 386. But H.B. 54 imposes no such DPOC requirements. *See* Ohio

[2] Plaintiffs have disclaimed any intent to bolster their evidence of standing through their motion for a preliminary injunction. *See* Plfs.' Opp'n Mot. Stay at 4, Dkt. 33 at PageID 1093. Nevertheless, Defendants will address this additional evidence out of an abundance of caution.

Rev. Code § 3503.11(A)(1); King Decl. ¶¶ 25–27; Defs.' Reply at 1–2, 10–12, Dkt. 26 at PageID 265–66, 274–76; Defs.' Mot. Dismiss at 2, 16, Dkt. 15 at PageID 111, 125.

At the end of the day, Plaintiffs' standing claims, like their merits claims, are based on speculative fears caused by a misreading of H.B. 54. The statutory text and the evidence in the record demonstrate that neither Plaintiffs nor their members have suffered a legally cognizable injury traceable to H.B. 54 and redressable by this Court. Consequently, they lack standing, they are unlikely to succeed on the merits, and they are not entitled to a preliminary injunction.

2. Even if Plaintiffs could establish standing, they are unlikely to succeed on the merits because H.B. 54 does not conflict with the NVRA.

"The preemption of state laws represents 'a serious intrusion into state sovereignty.'" *Va. Uranium, Inc. v. Warren*, 587 U.S. 761, 773 (2019) (plurality op.) (quoting *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 488 (1996)). Conflict preemption, the only applicable category of preemption here, exists where "compliance with both state and federal law is impossible, or where the state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Oneok, Inc. v. Learjet, Inc.*, 575 U.S. 373, 377 (2015) (quotation marks omitted). "[A] court interpreting a federal statute pertaining to a subject traditionally governed by state law will be reluctant to find pre-emption." *CSX Transp. v. Easterwood*, 507 U.S. 658, 664 (1993). "Thus, preemption will not lie unless it is the clear and manifest purpose of Congress," which must be contained in "the text and structure of the statute at issue." *Id.*

a. There is no conflict because H.B. 54 does not require DPOC to register to vote.

Plaintiffs allege that Ohio Rev. Code § 3503.11(A), as amended by H.B. 54, conflicts with 52 U.S.C. § 20504(c)(2), which states that "the voter registration application portion of an application for a State motor vehicle driver's license . . . may require only the minimum amount of information necessary to . . . enable State election officials to assess the eligibility of the applicant and to

administer voter registration and other parts of the election process." Plaintiffs believe § 3503.11(A) imposes a DPOC requirement in connection with voter registration, which they say exceeds the "minimum amount of information necessary" to assess eligibility. But as a matter of both statutory language and the statute's implementation, Plaintiffs are wrong.

Simply put, Ohio law does not impose a DPOC requirement. Rather, Ohio obliges deputy registrars to "offer" applicants for Ohio credentials "the opportunity to register to vote" if the applicant presents DPOC or has previously done so. Ohio Rev. Code § 3503.11(A). There is no corresponding prohibition: deputy registrars are not statutorily bidden to *restrict* voter registrations to those applicants who present DPOC or have previously done so. *See id*. The statute is merely a directive to offer voter registration to confirmed citizens, not a DPOC requirement. Plaintiffs' assertion that "a person must provide DPOC before they can register to vote," Doc. 29-1, PageID 370, is incorrect. Nothing in H.B. 54 imposes this requirement.

This is reflected in BMV policies and practice. The BMV does not prevent or prohibit anyone from registering to vote who fails to present DPOC. Anyone who wishes to register to vote at the BMV may fill out a paper registration form, which the BMV will forward to elections officials. King Decl. ¶¶ 25–27, Ex. A-5 at 65. This includes individuals who neglect to bring their DPOC to the BMV and therefore cannot obtain a credential. King Decl. ¶ 25. Notably, even a year after its implementation, Plaintiffs have not pointed to *any* individual prevented from registering to vote at the BMV because the individual did not present DPOC.[3] Experience—the best teacher—confirms that § 3503.11(A) does not conflict with the NVRA's "minimum amount of information" standard.

[3] Plaintiffs identify three categories of individuals they claim will be unable to register under H.B. 54: (1) those without DPOC on file with the BMV who seek to renew a credential, (2) those who do not possess DPOC or fail to bring it to the BMV, and (3) those who need to use alternative documents to prove legal presence under Ohio Admin. Code § 4501:1-1-21(Q). Dkt. 29-1 at PageID 373–75. The first category is a null set. Every Ohioan with an unexpired credential who is eligible for a renewal transaction has already provided proof of citizenship or legal presence to the

Moreover, the "minimum amount of information" standard plainly applies to the "voter registration application portion of an application for a State motor vehicle driver's license." 52 U.S.C. § 20504(c)(2). Voter registration is just one small part of an application for a driver's license. For example, the applicant must also establish the applicant's identity, *see* Ohio Rev. Code § 4507.06(A)(1), pass a driving skills test, *see* Ohio Rev. Code § 4507.10-11, and be photographed, *see* Ohio Rev. Code § 4507.06(A)(2), among other requirements. Applicants present documentary proof of legal presence in the United States when establishing their identities during the credentialing portion of the license application. King Decl. ¶¶ 8–10, 12. This occurs *before* the voter registration portion of the credentialing transaction. King Decl. ¶ 21. Applicants who establish legal presence in the United States through DPOC are not asked for DPOC in connection with the voter registration portion of the transaction. King Decl. ¶ 22.

For these reasons, Plaintiffs cannot show that compliance with both the NVRA and H.B. 54 is "impossible." *See Oneok*, 575 U.S. at 377. Nor can Plaintiffs show that H.B. 54 "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *See id.* Indeed, Plaintiffs' requested relief would frustrate Congress's intent to "protect the integrity of the electoral process" and "ensure that accurate and current voter registration rolls are maintained," 52 U.S.C. § 20501(b)(3)–(4), because it would require BMV registrars in Ohio to submit voter registrations of individuals they *know* are noncitizens, *see infra* Part A.2.b.

BMV and is therefore eligible to update his voter registration. King Decl. ¶ 30. The second category of individuals may register to vote at the BMV using a paper application. And in any event, anyone in the second category cannot submit a credential application, *see* King Decl. ¶ 15, so the NVRA does not even apply, *see* 52 U.S.C. 20504(a)(1) (requiring each application *submitted* to the BMV to serve as a voter registration application). And the third category of individuals may register to vote through the BMV's electronic systems if the BMV accepts the proffered alternative documents. King Decl. ¶¶ 17, 23.

b. Even if Plaintiffs' version of H.B. 54 existed, it would not violate the NVRA.

Plaintiffs never engage with H.B. 54 as written, much less examine it for conflicts with the NVRA. Instead, their request for extraordinary injunctive relief rests solely on their insistence that the extraconstitutional test created by the Tenth Circuit in *Fish v. Kobach*, 840 F.3d 710 (10th Cir. 2016), ought to apply here. Of course, *Fish* is not binding on this Court, and Plaintiffs' near-exclusive reliance on this out-of-circuit case is telling. Regardless, *Fish* is distinguishable on its facts and is unpersuasive as a matter of legal reasoning.

For one, *Fish* is factually distinct from this case. The Kansas law at issue there directed elections officials to "accept any completed application for registration," but further provided applicants "shall not be registered" until they "provided satisfactory evidence of United States citizenship." *Fish*, 840 F.3d at 717. It applied to all methods of voter registration, and required applicants to present one of the law's enumerated DPOC documents either "in person at the time of filing the application for registration" or "by including a photocopy . . . with a mailed registration application." *Id.* In short, *Fish* involved a true DPOC requirement; this case does not.

Moreover, the preemption test the Tenth Circuit invented in *Fish* is unsupported by precedent. The test improperly relieved the plaintiffs of their burden to demonstrate preemption, and improperly shifted the burden to Kansas to meet a strict scrutiny-like test that is neither drawn from the NVRA nor imposed by the Constitution. To conclude the law was preempted, the Court read into Section 5 a "presumption" that the sworn attestation of citizenship required in motor voter forms is the "*presumptive* minimum amount of information necessary" to establish citizenship. *Id.* at 717. According to the Tenth Circuit, rebuttal requires States to show that, during a relevant time period, there were a "substantial number of noncitizens" who successfully registered notwithstanding attestation. *Id.* at 739. They must further show "nothing less than DPOC is sufficient" to remedy

noncitizen registration. *Id.* at 738 n.14. In other words, unless the State satisfies strict scrutiny, the law is preempted. The problem with that is none of this—neither the presumption nor the substantiality requirement—is in the NVRA. It was the creation of an out-of-circuit court, responding to different facts and a different statutory scheme on an emergency basis.

Moreover, taking the Tenth Circuit's approach and reading these extratextual rules into the NVRA raises significant and unnecessary constitutional concerns. The Elections Clause guarantees States the power to pick the time, place, and manner of elections, unless Congress says otherwise. U.S. Const., art. I, § 4. The Elections Clause, in other words, "empowers Congress to regulate *how* federal elections are held." *Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 16 (2013). When Congress exercises this power, a straightforward preemption analysis follows: does the State law conflict with the federal law? But the Elections Clause does not regulate "*who* may vote" in elections. *Id.* This power "sprang from the Framers' aversion to concentrated power," *id.* at 17, and it is reserved to the States, *see id.* at 16–17. Application of the *Fish* test here would therefore raise therefore "serious constitutional doubts" because it calls for a strict scrutiny analysis of Ohio's ability to affirm voter qualifications, a matter within Ohio's control. *See Inter Tribal,* 570 U.S. at 17. That the *Fish* test is found nowhere in the NVRA's text or in conflict-preemption precedents only deepens these constitutional concerns.

Finally, applying *Fish*'s "substantial number of noncitizens" test would invite absurd results in Ohio. Ohio requires *all* credential applicants to submit documentation that will, by its very nature, establish proof of either citizenship or noncitizenship. Ohio Admin. Code § 4501:1-1-21(G). In Plaintiffs' view, Ohio must close its eyes and ears to the documentary proof it receives during the credentialing transaction and offer voter registration to confirmed noncitizens and citizens alike. At least, it must do so unless it can prove that a "substantial number of noncitizens" register to vote. In States where citizens need not offer documentary proof of citizenship or noncitizenship to obtain a driver's license, perhaps requiring substantial evidence of noncitizen registration makes sense. But

it makes no good sense in Ohio, which is aware of every applicant's citizenship status by virtue of the credentialing requirements. Adopting Plaintiffs' literal reading of "minimum information necessary" endorses an "absurd result" that is "inconsistent with the intent of Congress" in passing the NVRA. *See Vergos v. Gregg's Ents.,* 159 F.3d 989, 990 (6th Cir. 1998).

The Court can avoid unnecessary constitutional problems and absurd results, however, by rejecting Plaintiffs' approach and, instead, applying traditional conflict preemption principles to determine whether "compliance with both state and federal law is impossible, or where the state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Oneok, Inc.*, 575 U.S. at 377 (quotation marks omitted). As explained above in Section A.2.a., H.B. 54 easily survives this standard.

B. As the delay in Plaintiffs' request suggests, they are not facing any legitimate risk of irreparable harm, and their alleged injuries stem from their misreading of the statute.

"Even with a high likelihood of success on the merits, a preliminary injunction is not warranted unless the plaintiff[] [is] likely to suffer irreparable injury in the absence of interim relief." *Kentucky v. Biden*, 57 F.4th 545, 555 (6th Cir. 2023) (citations omitted). Thus, a plaintiff's failure to demonstrate a risk of irreparable harm precludes the granting of a preliminary injunction. *See Friendship Materials, Inc. v. Mich. Brick, Inc.*, 679 F.2d 100, 104 (6th Cir. 1982).

For an injury to be considered "irreparable" there must be "no adequate remedy at law." *See Schmitt v. LaRose*, 933 F.3d 628, 637 (6th Cir. 2019). And the alleged injury "'must be both certain and immediate,' not 'speculative or theoretical.'" *Memphis A. Philip Randolph Inst. v. Hargett*, 978 F.3d 378, 391 (6th Cir. 2020) (citation omitted); *see also Moms for Liberty – Wilson Cnty. v. Wilson Cnty. Bd. of Educ.*, 155 F.4th 499, 514 (6th Cir. 2025) ("[A] 'possibility' of harm does not entitle Plaintiffs to a preliminary injunction." (quoting *Winter v. NRDC, Inc.*, 555 U.S. 7, 22 (2008))).

Here, Plaintiffs have failed to prove irreparable harm. Plaintiffs' theory of harm rests on the same flawed interpretation of H.B. 54 as the rest of their case. The statute does not require DPOC to register to vote at the BMV—it merely requires clerks to offer voter registration to established citizens. Anyone who asks to register at the BMV can do so. King Decl. ¶¶ 25, 26. It is unsurprising then that Plaintiffs' alleged irreparable harms are based on speculation and probabilities rather than concrete harm. *See* Plfs.' Mot. Prelim. Inj. at 12–15, Dkt. 29-1 at PageID 373–76.

Plaintiffs' delay in seeking emergency relief belies their claims of irreparable harm. "The length of time that a party takes to file suit or request injunctive relief is also relevant to the irreparable harm inquiry." *Doe v. Univ. of Mich.*, No. 2:26-CV-10768-TGB-KGA, 2026 U.S. Dist. LEXIS 62081, at *16–17 (E.D. Mich. Mar. 24, 2026) (quoting *Kendall Holdings, Ltd. v. Eden Cryogenics LLC*, 630 F. Supp. 2d 853, 867 (S.D. Ohio 2008)). "An unreasonable delay in filing for injunctive relief will weigh against a finding of irreparable harm." *York Risk Servs. Grp. v. Couture*, 787 F. App'x 301, 308 (6th Cir. 2019) (citation omitted). Here, it has been roughly a year since H.B. 54 took effect—a year that included both a general election and a primary election. If Plaintiffs' harms were truly irreparable, why did they let the last two elections go by without taking action?

Plaintiffs have failed to establish *any* harm caused by H.B. 54, let alone "certain and immediate" irreparable injury. *See Memphis A. Philip Randolph Inst*, 978 F.3d at 391.

C. The balance of the equities weighs in Defendants' favor because a preliminary injunction would not preserve the status quo, the State would be irreparably harmed, and a preliminary injunction would have adverse consequences.

"The two remaining preliminary injunction factors—whether issuing the injunction would harm others and where the public interest lies—merge when the government is the defendant." *Kentucky v. Biden*, 57 F.4th 545, 556 (6th Cir. 2023) (citation omitted).

Here, the balance of the equities tips in Defendants' favor in at least three ways. First, Plaintiff's requested injunction would not preserve the status quo. "The purpose of a preliminary

injunction is to preserve the status quo until a trial on the merits." *S. Glazer's Distribs. of Ohio, LLC v. Great Lakes Brewing Co.*, 860 F.3d 844, 848 (6th Cir. 2017) (citing *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981)). Here, the status quo is that H.B. 54 has been in effect for nearly a year. The requested preliminary injunction would not preserve the status quo; it would be a shortcut to full merits relief. This Court should preserve the status quo by denying Plaintiffs' motion.

Second, the public interest weighs against enjoining a duly enacted statute. "[A]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury." *Maryland v. King*, 567 U.S. 1301, (2012) (Roberts, C.J., in chambers) (citation omitted).

Third, Plaintiffs' requested relief would have far-reaching consequences. Under their reading of the NVRA, BMV staff would be required to proactively offer voter registration to everyone who applies for a driver's license—including confirmed noncitizens. In other words, Plaintiffs say that the attestation requirement suffices to guard against unlawful noncitizen registration, even for those noncitizens who present documentary proof of their noncitizenship. But recent events suggest otherwise. Just last month, a state trial judge found a noncitizen had been entrapped into illegally voting when a BMV employee encouraged her to register. Jake Zuckerman, *Ohio Woman Accused of Illegally Voting Found Not Guilty*, Columbus Dispatch (May 20, 2026), https://www.dispatch.com/story/news/courts/2026/05/20/ohio-woman-accused-voting-noncitizen-acquitted-trial/90175522007/. Plaintiffs' requested relief would invite noncitizen voting while building in an entrapment defense to defeat any attempts to prosecute it.

CONCLUSION

Because Plaintiffs have failed to satisfy the requirements for this extraordinary relief, this Court should deny Plaintiffs' Motion for Preliminary Injunction.

Respectfully submitted,

DAVE YOST
Ohio Attorney General

/s/ Ann Yackshaw

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CERTIFICATE OF SERVICE

I hereby certify that on June 4, 2026, the foregoing was filed with the Court. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties for whom counsel has entered an appearance. Parties may access this filing through the Court's system. Additionally, a copy of the foregoing was emailed to all counsel of record.

/s/ Ann Yackshaw
ANN YACKSHAW (0090623)
Assistant Attorney General

CERTIFICATE OF COMPLIANCE

Pursuant to Northern District of Ohio Local Civil Rule 7.1(f), I hereby certify that this case has not been assigned to a track. This memorandum complies with the page limitations for unassigned cases.

/s/ Ann Yackshaw
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Assistant Attorney General