

# WA's ban on high-capacity gun magazines ruled unconstitutional

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A Cowlitz County judge ruled Washington's ban on high-capacity magazines unconstitutional Monday, but just minutes later the state Supreme Court issued an emergency order keeping the law on the books while the state appeals the decision.

Cowlitz County Superior Court Judge Gary Bashor ruled that Washington's ban on the magazines, which hold more than 10 rounds and have been banned since 2022, violated both the Washington state and U.S. constitutions.

Bashor [issued an immediate injunction](#), which blocks the state from enforcing the ban.

Attorney General Bob Ferguson filed an emergency appeal to the state Supreme Court, seeking to get the law back on the books. Michael Johnston, the Washington state Supreme Court commissioner, [granted an emergency stay Monday evening](#), keeping the ban in effect, for now.

Johnston wrote that he considered "the debatable nature of the factual and legal issues raised in this case, and the public safety issues concerning the proliferation of large capacity magazines."

In ruling the law unconstitutional, Bashor pointed to a 2022 U.S. Supreme Court decision Bruen, in which the court ruled 6-3 that gun regulations must be "consistent with the Nation's historical tradition of firearm regulation."

Bashor wrote that the state needs to show a historical law, from around the time of the Second Amendment's adoption, that justifies its current regulation.

"The State must provide some history of regulation in line with the requirements of Bruen," Bashor wrote. "The state has failed to do so."

His decision, citing Supreme Court precedent, would toss the high-capacity magazine ban and casts doubt on most modern gun laws.

"There was no appetite to limit gun rights by the Founders. Though the specific technology available today may not have been envisioned, the Founders expected technological advancements," Bashor wrote. "The result is few, if any, historical analogue laws by which a state can justify a modern firearms regulation."

Ferguson, in a prepared statement, called the decision incorrect.

“Every court in Washington and across the country to consider challenges to a ban on the sale of high-capacity magazines under the U.S. or Washington Constitution has either rejected that challenge or been overruled. This law is constitutional,” he said.

He called the law “essential to addressing mass shootings.”

In arguments and motions, the state pointed to “the enduring tradition of firearms regulation” to satisfy the requirements of Bruen and justify the ban.

But, Bashor wrote, that is incorrect.

“Bruen was not an invitation to take a stroll through the forest of historical firearms regulation throughout American history to find a historical analogue from any random time period,” he wrote.

Instead, the state needs to find a similar historical gun regulation from 1791, just after the Bill of Rights was adopted, Bashor wrote.

The state argued that gun violence and mass shootings are “an unprecedented societal concern,” but Bashor brushed that argument aside.

The 2007 mass shooting at Virginia Tech was “widely publicized,” Bashor wrote, and yet the U.S. Supreme Court broadened Second Amendment protections, in a case known as Heller, the next year.

“The Washington legislature has found that gun violence and mass shootings are on the increase,” Bashor wrote. “The problem, however, is not an unprecedented societal concern.”

The decision stems from a lawsuit Ferguson filed against Gator’s Guns, based in Kelso, for selling high-capacity magazines after the ban went into effect. A Federal Way gun shop and its owner, earlier this year, [agreed to pay \\$3 million](#) for violating the ban after they were sued by Ferguson.

In his emergency motion, Ferguson wrote that even a temporary pause in the law’s enforcement would likely “unleash a flood” of high-capacity magazines in Washington.