

Judge rules Washington's ban on high-capacity magazines unconstitutional, case now heads to state Supreme Court



April 9, 2024 Updated Tue., April 9, 2024 at 10:37 p.m. These pictures provided by the Washington Attorney General's Office show gun parts being sold in Gators Custom Guns in Kelso, Washington. (Courtesy Washington Attorney General's Office)

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OLYMPIA – When a judge ruled Washington's ban on high-capacity gun magazines to be unconstitutional Monday, the state sought and received an emergency order minutes later to keep the law on the books while the ban is appealed.

The case moves next to the Washington Supreme Court later this month. Meanwhile, gun retailers are still prohibited from selling assault-style weapons in the interim.

Last September, the state Attorney General Bob Ferguson sued Kelso-based gun retailer Gators Custom Guns, [accusing the shop of selling thousands of illegal assault rifle magazines](#) to the public, despite a state [law](#) passed in 2022 that banned the distribution of magazines that hold more than 10 rounds of ammunition.

As part of the gun shop's defense, Gators challenged the constitutionality of Washington's assault weapons ban. Cowlitz County Superior Court Judge Gary Bashor this week released his [55-page decision](#) siding with Gators Custom Guns. In it, Bashor wrote the state's assault weapons ban violates the Second Amendment of the U.S. Constitution as well as a clause in the state Constitution that grants people the right to bear arms for self-defense.

"There was no appetite to limit gun rights by the Founders," reads the decision. "Though the specific technology available today may not have been envisioned, the Founders expected technological advancements. Many were inventors."

Bashor's ruling issued an immediate injunction blocking Washington from enforcing its statewide ban on assault weapons. But when the attorney general's office heard of the ruling, the state agency fast-tracked an order that essentially put a hold on any reversal of the assault weapons ban until a decision is made in the case on appeal.

"Today's decision is incorrect," Ferguson wrote in a [statement](#). "This law is constitutional. It is also essential to addressing mass shootings in our communities. This law saves lives, and I will continue to defend it."

Gators shop owner Walter Wentz said in an interview on Tuesday that the attorney general's decision to seek an emergency stay order until the case was resolved was "one-sided, not judicially prudent and unfair to taxpayers."

"I'm very proud of our Cowlitz County Superior Court Judge Gary Bashor for being a champion and scholar of our Constitution," Wentz added. "I'm confident that we're going to prevail in the end. I'm not sure if this is the final stop on the train or if this goes to the (U.S. Supreme Court). But we will prevail."

The Washington Supreme Court is scheduled to hear the case's appeal on April 17.

Since 1980, high-capacity gun magazines have been used in at least 85 shootings in the United States, causing 791 deaths and more than 1,100 injuries, [according to the Pew Research Center](#).

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