

# WA high-capacity magazine ban in court once more, with ruling to come

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*Supreme Court Commissioner Michael Johnston presides over a hearing Wednesday in the state of Washington's case against Gator's Custom Guns. (Screenshot via TVW)*

By [David Gutman](#)

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Washington's state Supreme Court commissioner, who handles procedural matters for the high court, will decide next week whether the state's ban on high-capacity magazines will remain in effect while the Supreme Court considers an appeal.

The law banning magazines with more than 10 rounds, passed by the Democratic-controlled Legislature in 2022, has been in flux since a Cowlitz County judge ruled it unconstitutional last week.

Superior Court Judge Gary Bashor, citing U.S. Supreme Court precedent, ruled that the law [violated both the Washington and U.S. constitutions](#) because it lacked a "historical analogue" from around 1791, when the Second Amendment was adopted. Bashor immediately halted enforcement of the law.

But 90 or so minutes after that ruling went into effect, Supreme Court Commissioner Michael Johnston issued a stay, halting the Cowlitz County decision and temporarily reinstating the ban.

Gator's Custom Guns, the Kelso gun store at the heart of the litigation, said it sold hundreds of high-capacity magazines while the law was invalid, in the time after the ruling and before the stay.

Bashor's ruling pointed to a 2022 U.S. Supreme Court decision, in a case known as Bruen, requiring that gun laws be "consistent with the Nation's historical tradition of firearm regulation."

The implications of that ruling have perplexed lower courts across the country and [spurred a raft of legal challenges](#), in Washington and elsewhere, to gun safety laws.

"Courts are really struggling with it," Johnston said Wednesday.

In oral arguments held Wednesday over Zoom, Johnston considered whether the stay should remain in effect while the state's appeal runs its course.

He appeared to be leaning toward keeping the stay, and the ban on high-capacity magazines, in place.

He said there were "some highly debatable issues" in the Cowlitz County ruling and said the judge was "heavily influenced by some very questionable testimony."

Speaking in a folksy, conversational tone, Johnston gave a lengthy preamble, explaining his role in the process and how he was able to grant a stay so quickly.

He said he had received numerous angry emails and phone calls.

"The two questions I always got, were 'The Supreme Court has a commissioner?' and 'What do you do?'" Johnston said. "We are the gatekeeper of the court."

He tried to assuage complaints that he was hostile to guns.

"Personal side note, I'm a gun enthusiast, I own firearms, I learned to shoot when I was 5 years old," Johnston said. "There's a species of ground squirrel in Spokane County that's endangered probably because of me."

He said his decision to issue the temporary stay last week was influenced by what happened in California, when that state's ban on high-capacity magazines was invalidated for a week or so.

"Everybody went hog wild in California and there was like this feeding frenzy on large-capacity magazines and in the space of like a week the national supply of large-capacity magazines was more or less depleted," he said.

Johnston repeatedly interrupted arguments from lawyers representing the Attorney General's Office and Gator's Custom Guns, peppering them with questions and his own observations.

Austin Hatcher, the attorney for Gator's, said the harms the state was claiming from the law being invalidated were speculative.

"Here's something that's not speculative," Johnston interjected. "The legislators, acting as representatives of the people, enacted this legislation for the purpose of easing people's minds about the danger of a mass shooter."

When Hatcher argued that high-capacity magazines were important for self-defense, Johnston interrupted, skeptical.

"I don't buy this idea that you need to have an AR-15 or a Glock or something with 15 or 30 rounds," he said. "I know shooting, I'm familiar with it."