

# High-capacity gun magazines stay illegal in WA, court commissioner rules

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*A gun-rights supporter, wearing a firearm and several magazines of ammunition, is seen at a rally in 2018 at the Capitol in Olympia. (Ted S. Warren / AP)*

By [David Gutman](#)

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High-capacity magazines, those holding more than 10 bullets, will remain illegal to buy or sell in Washington, while the state appeals a lower-court ruling that found the ban unconstitutional, the state Supreme Court commissioner ruled Thursday.

Commissioner Michael Johnston, who acts as a gatekeeper before the court can fully consider a case, kept in place an emergency stay he had issued earlier this month.

That stay means Washington's ban on the magazines, which the Legislature passed in 2022, remains in place unless the Supreme Court rules otherwise.

The law was thrown into doubt this month when a Cowlitz County judge ruled that it violated both the U.S. and Washington constitutions.

In [ruling the law unconstitutional](#), Cowlitz County Superior Court Judge Gary Bashor pointed to the U.S. Supreme Court's 2022 Bruen decision, 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, and that it had failed to do so.

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

Johnston, [in a hearing last week](#), cited "highly debatable" issues in Bashor's decision and said the judge was "heavily influenced by some very questionable testimony."

"Debatability does not turn on a finding that the lower court erred, but rather, whether reasonable minds can differ on the issue at hand," Johnston [wrote in an 81-page opinion](#) issued Thursday. A key question in issuing a stay, he wrote, was how much invalidating the law while an appeal is pending would have a permanent impact if the law is ultimately ruled constitutional.

"The historical record shows that [large-capacity magazines] greatly increase the number of fatalities and injuries inflicted in a mass shooting and that the frequency of such incidents has grown in recent years," Johnston wrote. "The idea that I could lift the stay and something awful happens with a [large capacity magazine] that would not have been obtained but for that decision keeps me awake at night."

He noted that last week that in California, there was a "feeding frenzy" on high-capacity magazines during the week or so that a lower court invalidated that state's ban.

In Washington, Gator's Custom Guns, the Kelso gun store at the heart of the litigation, said it sold hundreds of high-capacity magazines in the 90 minutes or so after Bashor's ruling and before Johnston issued a stay.