

A ammo magazine restrictions to remain in place as state appeals judge's ruling

A 2022 law bans the sale of firearm magazines that hold more than 10 rounds. The state is asking the Washington Supreme Court to review a lower court decision that found the law unconstitutional.

BY: [JERRY CORNFIELD](#) AND [BILL LUCIA](#) - APRIL 25, 2024 2:00 PM
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(Photo by George Frey/Getty Images)

Washington's ban on the sale of ammunition magazines that hold more than 10 rounds will remain in place while the state appeals a lower court ruling that briefly overturned the law.

On Thursday, Supreme Court Commissioner Michael Johnston [extended his April 8 order](#), which put on hold a lower court ruling – issued earlier that same day – that found

the law was unconstitutional. While Johnston's latest decision will keep the law in effect, it does not resolve the underlying legal battle over the state's restrictions on large-capacity magazines.

This case stems from a dispute between the state and a firearms retailer – Gator's Custom Guns in Kelso, along with the business' owner Walter Wentz.

Gator's filed a legal challenge against the ban on high-capacity magazines months after it went into effect in July 2022. State Attorney General Bob Ferguson followed up with an enforcement action, alleging the shop had violated state law by continuing to sell the prohibited magazines.

The attorney general's office [asked the state Supreme Court on Tuesday](#) to take up the case, rather than having it go next to a state appeals court. The Supreme Court has not yet decided whether to grant that request.

"Today's decision means these magazines are not flooding into our state while we work to reverse the incorrect decision by the lower court," Ferguson said in a statement.

Pete Serrano, an attorney with the Silent Majority Foundation, who is representing Wentz, said he wasn't surprised by the decision on Thursday based on how a hearing before Johnston went earlier this month.

Serrano noted his side can appeal Johnston's order. He also said they are not opposed to the case going directly to the state Supreme Court, likening it to warping ahead in a video game. "Why play all the levels when, in the end, we know where it's going," he said.

"This is a critical issue, defending constitutionally guaranteed rights," Serrano added.

'Debatable issues'

In opting to keep the lower court ruling paused, Johnston weighed how the state, Gator's and Wentz could be affected.

He acknowledged that the state cannot prove a negative: that keeping the law intact during further legal proceedings will prevent gun violence. But he added, “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.”

By blocking the law’s enforcement, he wrote, the lower court “deprives Washington’s citizens of needed protection enacted by their elected representatives.”

Ferguson in his statement on Thursday said there is “uncontested evidence” that shows magazines that hold more than 10 rounds “make mass shootings and other horrific crimes more frequent and more deadly.”

Considering Gator’s position, Johnston noted that lawful firearm owners “can buy as many 10-round magazines as they can load into their cars or trucks while this appeal plays out.”

“There are numerous debatable issues to be resolved,” the commissioner concluded.

The earlier ruling

Cowlitz County Superior Court Judge Gary Bashor, in his April 8 ruling, found that the nearly two-year-old ban violated the Second Amendment of the U.S. Constitution and part of the Washington Constitution granting individuals a right to bear arms for self-defense.

“It is logically inconceivable that an item that is constitutionally protected to possess could be prohibited from sale to the very people who have the protected right to possess,” he wrote.

In his decision, Bashor outlined why the state law does not comply with a series of U.S. Supreme Court rulings over the past 15 years, including [one in 2022](#) in a case known as Bruen that requires gun restrictions to be consistent with the nation’s “historical tradition of firearm regulation.”

Measures regulating ammunition magazine capacity face legal challenges [in California](#) and [Oregon](#) as well.

Here in Washington, Bashor's ruling blocked state authorities from enforcing [the law](#), clearing the way for sales of ammunition magazines that can hold more than 10 rounds.

But roughly 90 minutes after his decision came down, Johnston granted the request of state attorneys for a temporary stay to restore the prohibition.

In the time between Bashor's decision and Johnston's order putting it on hold, buyers rushed to buy the magazines. Johnston's order on Thursday noted that "Gator's Guns boasted on social media that it had sold LCMs to about 250 customers that day."

Serrano conceded that Washington's state Supreme Court may not be the friendliest venue for opponents of the state's firearm magazine prohibitions. Even so, he predicted that the way Bashor wrote the ruling "is going to make it fairly difficult to overturn."

This story was updated with comments from Attorney General Bob Ferguson and The Silent Majority Foundation's Pete Serrano.

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