



Written by [Alex Newman](#) on March 5, 2013

New York Courts May Kill Cuomo Assault on Gun Rights

In a move widely celebrated by activists, New York Supreme Court justices last week ordered Democrat Gov. Andrew Cuomo's administration to prove by the end of next month that its [recent assault on gun rights](#) is actually constitutional — critics and experts [say](#) it clearly violates both the U.S. and state constitutions. The extraordinary speed used to adopt the controversial legislation, which appears to have violated a separate provision in the state constitution, is also facing scrutiny from the judicial branch.



If the state government fails to prove its case on both counts in the time frame provided, the unprecedented attack on gun rights may be struck down entirely, or at least temporarily rendered void. Gun rights activists have been pursuing [multiple strategies](#) to defeat the controversial infringements on the right to keep and bear arms adopted in New York. However, attacking them in the courts is seen by activists as among the most viable, at least at this point.

The statute in question, the so-called "NY SAFE Act," [purports](#) to limit firearms to seven rounds and ban most semi-automatic weapons and standard-capacity magazines. Other unconstitutional and highly controversial provisions aim to, for example, mandate gun-owner registration with authorities while demanding government approval for virtually every firearm transfer.

Activists have already [promised](#) to defy the unconstitutional restrictions, and [thousands of protesters recently converged on Albany](#) calling on "King" Cuomo to resign or even be tried for treason owing to his blatant disregard for his oath of office and the lawless assault on the Constitution. The [protests are getting bigger and louder](#) even as the state faces an avalanche of lawsuits to overturn its lawless assault on the rights of law-abiding New Yorkers.

Amid the anti-gun rights hysteria [whipped up by the increasingly discredited establishment media](#) after the massacre of children in a [Connecticut "gun-free zone,"](#) the controversial "NY SAFE Act" was rammed through the legislature with arm-twisting from Gov. Cuomo on January 15. It passed just hours after being introduced — an apparent violation of the state Constitution, which generally requires three days before legislation can be passed unless there is an emergency.

In fact, the legislation's approval was so rushed that lawmakers, most of whom apparently did not even read the bill, failed to exempt police officers from the draconian restrictions, sparking a mad dash to amend the statute before law-enforcement officials also become criminals. Across the state, sheriffs and other top law-enforcement officials [have expressed serious concerns about the legislation](#), too — especially because of the brazen infringements on God-given rights of citizens and the violation of the U.S. and state constitutions they all took an oath to uphold.

If gun owners get their way and the state is forced to obey the U.S. and New York constitutions, however, it may all be a moot point. Last week, in two separate orders, state Supreme Court justices ordered the embattled Cuomo administration to explain itself and its unconstitutional infringements on the unalienable right to keep and bear arms enshrined in both the Second Amendment to the U.S.



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Constitution and the New York Constitution.

The [first order](#), issued by State Supreme Justice Deborah Chimes on February 27, demands that the state government prove that its unprecedented infringements on gun rights are indeed constitutional by April 29. The lawsuit was initiated by gun dealer Edward Holtz, who argues that the unconstitutional statute, among other problems, put him out of business, left him with merchandise he cannot sell, and violates his rights. According to the order issued by Justice Chimes, if the state is unable to prove that its statute is constitutional by the deadline, she will temporarily enjoin it.

The [other major lawsuit](#) making its way through the courts resulted in an order issued on March 1 by State Supreme Court Justice Gerald Connolly. The justice granted a hearing to the more than 1,250 plaintiffs, who are arguing, among other points, that the state's decision to waive the constitutionally mandated three-day review before voting on bills represents a blatant violation of the state constitution.

The gun owners, who are representing themselves in the case under the banner of "[We the People of New York](#)," also say the dubious process used to adopt the unconstitutional law violates the rights to free speech, property ownership, and to petition the government — all of which are guaranteed in the U.S. and New York constitutions. If the Cuomo administration and lawmakers who supported the lawless infringements fail to "show cause" for the assault in court by March 11, the court would also enjoin the controversial statute.

"For starters, Gov. Cuomo violated Article III, Section 14 of the New York Constitution by misstating the facts in his message of necessity in order to ram the NY SAFE Act through the Senate and Assembly in a matter of hours. There was no legitimate need for speed," lead plaintiff Robert Schulz said in a statement, adding that Cuomo had behaved like a "king" in ramming through the bill, using lies, deception, and lawlessness. "By doing what he did, he denied us our right of free speech and to petition the government. That is a First Amendment right. That is a fundamental right protected by the Constitution and also guaranteed by our state constitution."

Gov. Cuomo, however, who became one of the most infamous anti-Constitution politicians in America after publicly suggesting that gun confiscation was an "option," has forcefully defended his administration's gambit. "We believe the law is, and the process was, valid and constitutional," Cuomo spokesman Rich Azzopardi was quoted as saying in a statement e-mailed to numerous reporters. His administration is expected to respond to the deluge of lawsuits by the deadlines, according to analysts. The cost to already-struggling taxpayers is predicted to be enormous.

If the courts decide to strike down the assault on gun rights, however, it may turn out to be a blessing in disguise for the embattled governor. Activists and even lawmakers have already announced what has been dubbed the "[largest act of civil disobedience](#)" in state history, with potentially tens of thousands of gun owners or more refusing to register their weapons or comply with other provisions in the controversial statute. A Republican lawmaker [openly pledged](#) to defy the statute as it was being debated, saying his wife's gun would continue to hold more than seven bullets while he was away.

Activists say the defiance will be unprecedented, and even the governor's office has acknowledged that it expects massive non-compliance. "They're saying, 'F— the governor! F— Cuomo! We're not going to register our guns,' and I think they're serious. People are not going to do it. People are going to resist," [explained](#) State Rifle and Pistol Association President Tom King, who also serves on the National Rifle Association board of directors. "They're taking one of our guaranteed civil rights, and they're taking it away." Numerous other activist leaders and gun owners have pledged to defy the law as well, and more



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than a few top lawmen in the state are expected to support the effort.

Meanwhile, more than [115 companies](#), ranging from gun and ammunition manufacturers to firearm accessory providers, have [decided to stop doing business with authorities in New York](#) because of the assault on citizens' rights. Among the major firms joining the boycott of New York authorities are LaRue Tactical, Olympic Arms, Extreme Firepower Inc., Templar Custom, York Arms, Cheaper Than Dirt, Barrett Firearms, and over 100 others so far, with the list growing larger by the day.

"Olympic Arms will no longer be doing business with the State of New York or any governmental entity or employee of such governmental entity within the State of New York — henceforth and until such legislation is repealed, and an apology made to the good people of the State of New York and the American people," [explained](#) company President Brian Schuetz, whose firm supplies all branches of the U.S. armed forces. Schuetz, one of dozens of major government suppliers to take a stand, also urged other companies to join the effort.

Several other lawsuits against the unconstitutional New York anti-gun rights statute are also pending or waiting to be filed. Experts and activists, meanwhile, say that if state courts fail to protect gun rights, they may be forced to seek relief in federal courts. The U.S. Supreme Court issued two landmark rulings in recent years against Washington, D.C., and Chicago — two cities with the most restrictive gun rules and among the highest murder rates in the nation. The verdicts simply clarified the obvious: The Second Amendment protects an individual right to keep and bear arms that "shall not be infringed."

Alex Newman is a correspondent for The New American, covering economics, politics, and more. He can be reached at anewman@thenewamerican.com.

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