



Written by [Bob Adelman](#) on July 27, 2022

Delaware “Assault Weapons” Ban Unconstitutional, Declares New Lawsuit

Following the Uvalde, Texas, mass shooting, Delaware’s Democratic Party — which controls the offices of governor, secretary of state, attorney general, and both chambers of the state’s legislature — rushed through nine gun-control bills in response. They largely ignored not only protections guaranteed by the Second Amendment to the U.S. Constitution, but also broader protections guaranteed by Article 1, Section 20 of the Delaware Constitution: “A person has the right to keep and bear arms for the defense of self, family, home and State, and for hunting and recreational use.”



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And they largely ignored as well the recent ruling by the Supreme Court in *New York State Rifle & Pistol Association v. Bruen*. Following that ruling, the high court remanded (returned) pending lawsuits impacted by that ruling to the states to comply accordingly.

On Wednesday, the Delaware State Sportsmen’s Association and several other groups and individuals [sued Delaware state officials](#) charged with enforcing the new law, asking the U.S. District Court of Delaware to render the law unenforceable.

The Delaware law makes it illegal to make, sell, purchase, or possess so-called assault weapons, including semi-automatic handguns and semi-automatic rifles such as the immensely popular AR-15 platform. It also bans possession of “large capacity” magazines, arbitrarily defined as containing more than 17 rounds of ammunition.

The law provides a long list of the newly-prohibited handguns and rifles and then, to make sure that if any were not included in the list they would also be banned, defined “assault” rifles as having detachable magazines and pistol grips, a flash suppressor, having a barrel shroud, and — unbelievably — the capability of launching grenades as well.

The lawsuit declares that “the State of Delaware recently enacted in law [a bill] which flouts the fundamental civil rights of Delawareans ... by making them criminals — felons — for exercising one of their most exacted rights enshrined in both the Delaware Constitution and the United States Constitution.”

House Bill 450 and its companion Senate Bill 68 were signed into law on June 30 (the Uvalde shooting occurred on May 24) by Democrat Governor John Carney, who said at the time that “we have an obligation to do everything we can to prevent tragedies like we’ve seen around the country from happening here in Delaware.”

He said nothing about how similar bans have failed to prevent such shootings, nor did he say anything about the mental states of the shooters. It was all about inanimate objects and punishing their innocent owners in order to make a political statement.



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From the lawsuit:

When House Bill 450 was signed into law on June 30, 2022, the State of Delaware criminalized possession, transportation and sale of common firearms used by law abiding citizens for lawful purposes — mislabeling them as “assault weapons” — making it a felony for law-abiding citizens to exercise their fundamental right to keep and bear such arms.

The plaintiffs

seek declaratory and injunctive relief not only on the basis that the Regulatory Scheme violates their rights under the Second and Fourteenth Amendments to the U.S. Constitution, but also on the fact that the Regulatory Scheme violates their rights under Delaware Constitution, Article I Section 20; their rights to Due Process under the Fourteenth Amendment to the U.S. Constitution and Article I, Section 7 of the Delaware Constitution; their right to Equal Protection under the Fourteenth Amendment of the U.S. Constitution.

The lawsuit referred to the *Bruen* decision coupled with the *Heller* decision (*District of Columbia v. Heller*, decided by the Supreme Court in 2008) which “assert that the Second Amendment protects the carrying of weapons that are those ‘in common use’ at the time.”

It derided Delaware officials who passed the law, using the phrase “assault weapons” in the text:

The banned semiautomatic firearms deemed as “assault weapons” under the Regulatory Scheme, like all other semiautomatic firearms, fire only one round for each pull of the trigger.

They are not machine guns.

What is more, the designation “assault weapons” is a complete misnomer, “developed by anti-gun publicists” in their crusade against lawful firearm ownership.

Further, banning such “assault weapons” has historically had almost no impact on mass shootings:

According to a widely cited 2004 study, these arms “are used in a small fraction of gun crimes.” See Gary Kleck, *Targeting Guns: Firearms and Their Control* [for] evidence [that] indicates that “well under 1% of [crime guns] are ‘assault rifles.’”

More recent data confirms Kleck’s 2004 conclusions. FBI crime statistics found that of the average of 14,556 homicides committed annually for the past decade, rifles typically account for just 314 of them. And in 2019, the latest year for which records are available, Delaware suffered 48 homicides, with none of them attributed to a rifle.

Of the five judges currently sitting on the U.S. District Court of Delaware, two were appointed by President Donald Trump, one was appointed by President Ronald Reagan, and the other two were appointed by Presidents Obama and Biden.

The New American will keep its readers advised of developments in the case.



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