



Written by [Bob Adelman](#) on January 16, 2023

Delaware Gun Owners Sue State Over Magazine Ban

Two law-abiding gun owners, along with two pro-Second Amendment groups, [filed suit last week](#) in Delaware, challenging the state's ban on "large capacity magazines." The law being challenged was signed into law just seven days after the Supreme Court ruled in *Bruen* that such laws must now be justified by demonstrating that they are "consistent with the Nation's historical tradition of firearm regulation."

The challenged law, SB 6, makes it a crime to purchase, receive, possess, transfer, sell, offer to sell, or manufacture any magazine that can hold more than 17 rounds of ammunition.



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The founder and executive vice president of the Second Amendment Foundation (one of the two groups contesting the law), Alan Gottlieb, said the new law "literally criminalizes one of the most common and important means by which Delaware citizens can exercise their right of self-defense. In effect, SB 6 makes self-defense a potential criminal act, and that must not be allowed to stand."

Delaware, the home state of Joe Biden, is under the virtual control of the Democratic Party: The governor's office, all statewide executive offices, large majorities in both state houses, and all seats for the state in the U.S. Congress are held by anti-gun Democrats. Predictably, rather than celebrate the Supreme Court's ruling in *Bruen*, the party thumbed its nose at the decision, implementing (for the first time in the state's history) a ban on so-called high-capacity magazines.

The law, which became effective the moment the state's Democratic Governor John Carney signed it on June 30, immediately criminalized every law-abiding gun owner in the state who owns such a "large capacity" magazine. All such owners must immediately turn over to a law-enforcement agency the offending magazines or face criminal charges: for a first offense, a \$100 fine; for a second offense, six months in jail and a \$1,150 fine; for additional offenses, up to five years in jail.

The lawsuit used logic, common sense, historical tradition, and the language from both the Second and 14th Amendments to make its case against Kathy Jennings, the Democratic attorney general for the state:

1. The AR-15 rifle, many of which come from the factory with magazines of 17 rounds or more, is owned by nearly 25 million Americans;
2. There are, as a result, some 44 million AR-15s owned by those Americans;
3. Those semi-automatic rifles "are very rarely used in the commission of crimes," according to the lawsuit. "Mass shootings represent an extremely small subset of all violent crime committed with a gun, and mass shootings involving firearms that feature magazines holding more than 17 rounds are an even smaller subset still";
4. There is "no convincing empirical evidence that a state magazine ban will have any impact at all on mass shootings";



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5. There is “no historical tradition” for prohibiting the possession of such magazines. “Indeed, until [this ban] was put in place, Delaware did not restrict possessing, purchasing, manufacturing, transferring, or selling standard capacity magazines, and no such laws existed *anywhere* in the United States before the 1990s”;
6. “Firearms capable of firing multiple rounds without reloading were well known to the founding generation”; and
7. Violent criminals “will not be meaningfully constrained by Delaware’s Ban ... it will not be difficult for violent criminals to acquire them through illegal sales or importation despite Delaware’s Ban.”

Hopefully all of this will be persuasive to the U.S. District Court for the District of Delaware, where the suit was filed last week. But for the Democrats, such expressions of logic, common sense, and historical tradition, not to mention the aforementioned amendments to the U.S. Constitution, mean nothing.



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