



Written by [Bob Adelman](#) on April 9, 2024

## Washington State Magazine Ban Ruled Unconstitutional

[In his well-reasoned 55-page ruling](#),

Washington Superior Court Judge Gary Bashor gave gun owners in the Evergreen State a brief respite on Monday: He ruled that the State of Washington's ban on the sale of "large capacity" magazines (containing more than 10 rounds) was unconstitutional.

That respite lasted less than a day, as the state's attorney general sought and received a temporary injunction against Bashor's ruling from the state's high court.

Bashor's was pure constitutional law, backed by the Supreme Court's ruling in *Bruen* requiring the state to show historical "analogues" to support the ban:



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The United States Constitution and the Bill of Rights exist to define the outer limits of what Legislatures and Courts are allowed to do....

Pursuant to the reasoning set out ... above, this Court finds there are no factual circumstances this Court can conceive under which ESSB 5078 [the magazine ban] as written and codified could be constitutional under the Washington Constitution, Article 1, Section 24.

The Court finds ESSB 5078 is facially unconstitutional under the Washington Constitution....

And the ban violates the Second Amendment to the U.S. Constitution, under *Bruen*:

Pursuant to the reasoning set out in the Federal Analysis above, this Court finds ESSB 5078 implicates the text of the Second Amendment of the US Constitution....

The State has failed to provide a relevantly similar historical analogue from the proper period, and therefore the State has failed to meet its burden under the *Bruen* historical analogue test.

He couldn't see how the state of Washington would even consider the ban to be constitutional:

The Court finds there are no factual circumstances this Court can conceive under which ESSB 5078 as written and codified could be constitutional under the United States Constitution, Second Amendment.

The Court finds, ESSB 5078 is facially unconstitutional under the United States Constitution.



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In his appeal to the state's high court for a stay of Bashor's ruling, Attorney General Bob Ferguson declared, "Today's decision is incorrect ... this law is constitutional. It is also essential to address mass shootings in our communities. This law saves lives, and I will continue to defend it."

The issue went public after the state banned the sale of "large capacity" magazines in 2022 and a local gun shop, Gator's Custom Guns in Kelso, ignored the law and continued to sell them. The Silent Majority Foundation represented the store's owner, Walter Wentz, when the state tried to enforce its edict. The foundation filed suit against the state last September and [is seeking public donations to cover its legal fees](#).

Peter Serrano, an attorney with the foundation, called Bashor's ruling very thorough: "He wanted to cover his bases. I don't think he wants [his ruling] to get overturned."

No date has been set to hear the merits of Gator's case against the state.



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