

The following material is from LCAV's February 2008 edition of [Regulating Guns in America: An Evaluation and Comparative Analysis of Federal, State and Selected Local Gun Laws](#)

Large Capacity Ammunition Magazines

Background

Automatic and semi-automatic firearms often use a detachable magazine or feeding device to store cartridges (which hold ammunition). Inside the magazine, a spring forces the cartridges into position to be fed into the chamber by operation of the firearm's action.

Although the statutory definitions vary, magazines with a capacity of more than 10 rounds of ammunition are generally considered to be "large capacity" magazines. In some cases, large capacity magazines can hold up to 100 rounds of ammunition. Although detachable large capacity magazines are typically associated with machine guns or semi-automatic assault weapons, such devices are generally available for any semi-automatic firearm that accepts a detachable magazine.

Because of their ability to hold so many rounds of ammunition, large capacity magazines significantly increase the lethality of the automatic and semi-automatic firearms using them. Other types of firearms, in contrast, are generally capable of holding far less ammunition. For example, revolvers typically hold six rounds of ammunition in a rotating cylinder.

Bans on large capacity ammunition magazines are often adopted in concert with bans on assault weapons. However, the impact of large capacity ammunition magazine bans is not limited to assault weapons. Large capacity ammunition magazine bans reduce the capacity, and thus the potential lethality, of any firearm that can accept a large capacity ammunition magazine, including a firearm that is not an assault weapon. As of 1994, 21% of civilian-owned handguns and 18% of all civilian-owned firearms were equipped with magazines that could hold 10 or more rounds.¹ Assault weapons make up only about 1% of the firearms estimated to be in civilian hands.²

Crime data also support the conclusion that a ban on large capacity magazines would have a greater impact on gun crime than a ban on assault weapons alone. Guns equipped with large capacity magazines were involved in 14% to 26% of gun crimes prior to the assault weapon ban in 1994, as compared with assault weapons, which accounted for 6% of gun crimes.³ Thus, a ban on large capacity ammunition magazines would reduce the capacity and lethality of many more firearms than would a ban on assault weapons alone.

Summary of Federal Law

On September 13, 1994, Congress adopted the Violent Crime Control and Law Enforcement Act of 1994. That Act amended the Gun Control Act of 1968, making it

¹ Christopher S. Koper, *An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, Report to the National Institute of Justice, United States Department of Justice 6, 18 (June 2004).

² Bureau of Justice Statistics Selected Findings, U.S. Department of Justice, *Firearms, Crime, and Criminal Justice: Guns Used in Crime* 6 (July 1995).

³ Koper, *supra* note 1, at 18-19.

unlawful to transfer or possess a “large capacity ammunition feeding device” not lawfully possessed on or before the law’s enactment.⁴ The law also banned the manufacture, transfer and possession of semi-automatic assault weapons.⁵

The 1994 Act defined “large capacity ammunition feeding device” as “a magazine, belt, drum, feed strip, or similar device . . . that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition.”⁶

The ban contained a loophole, however, allowing for the continued transfer and possession of large capacity ammunition magazines manufactured or possessed on or before enactment of the law. Manufacturers took advantage of this loophole in the months leading up to the ban by boosting production of the magazines. As a result, they continued to be readily available – and legal – nationwide, except where specifically banned by state or local law. This loophole also made enforcement difficult, as most magazines do not have any identifying marks to distinguish those that were manufactured before or after the effective date of the ban.⁷

The federal law was enacted with a sunset clause, providing for its expiration after ten years. Congress and the President allowed the 10 year-old ban to expire on September 13, 2004, despite overwhelming support for its renewal. Thus, large capacity ammunition magazines (and semi-automatic, military style assault weapons) that were formerly banned under the federal law are now legal unless banned by state or local law.

SUMMARY OF STATE LAWS BANNING LARGE CAPACITY AMMUNITION MAGAZINES

Six states have enacted laws banning large capacity ammunition magazines: California, Hawaii, Maryland, Massachusetts, New Jersey and New York. All of these states also ban assault weapons.

State Bans

[California](#)

Cal. Penal Code § 12020(a)(2), (b), (c)(25)

[Hawaii](#)

Haw. Rev. Stat. Ann. § 134-8(c)

[Maryland](#)

Md. Code Ann., Crim. Law § 4-305

[Massachusetts](#)

Mass. Gen. Laws ch. 140, §§ 121, 131M

[New Jersey](#)

N.J. Stat. Ann. §§ 2C:39-9(h), 2C:39-1(y), 2C:39-3(j)

[New York](#)

N.Y. Penal Law §§ 265.00(23), 265.02(8), 265.10

⁴ 18 U.S.C. § 922(w)(1), (2). All references to sections of the Violent Crime Control and Law Enforcement Act of 1994, codified at 18 U.S.C. § 921 *et seq.*, are to the sections as they appeared on September 12, 2004.

⁵ Additional information on assault weapons is contained in the section on [Assault Weapons](#).

⁶ 18 U.S.C. § 921(a)(31)(A). However, “attached tubular device[s] designed to accept, and capable of operating only with, .22 caliber rimfire ammunition” were exempted from the definition. 18 U.S.C. § 921(a)(31)(B).

⁷ Importation of Ammunition Feeding Devices with a Capacity of More Than 10 Rounds, 61 Fed. Reg. 39, 320 (July 29, 1996) (amending 27 C.F.R. § 178.119).

States that ban large capacity magazines designed for use with any firearm

California
Maryland
Massachusetts
New Jersey
New York

States that ban large capacity magazines designed for use with handguns only

Hawaii

States that ban large capacity magazines capable of firing more than 10 rounds

California
Hawaii
Massachusetts
New York

States that ban large capacity magazines capable of firing more than 15 rounds

New Jersey

States that ban large capacity magazines capable of firing more than 20 rounds

Maryland

States that grandfather pre-ban magazines

Massachusetts
New York

Description of State Laws Banning Large Capacity Ammunition Magazines

Large capacity ammunition magazine bans can be broken down into the following general categories:

1. *States that Ban Large Capacity Magazines for Use with Any Firearm:* California, Maryland, Massachusetts, New Jersey and New York all ban large capacity ammunition magazines for use with any firearm.
2. *States that Ban Large Capacity Magazines for Use with Handguns Only:* Hawaii prohibits the manufacture, transfer and possession of large capacity magazines designed for or capable of use with a handgun.
3. *Definition of Large Capacity Magazine:* State laws vary as to how the term “large capacity magazine” is defined. California, Hawaii, Massachusetts and New York define a large capacity magazine as a magazine that is capable of firing more than 10 rounds. The New Jersey definition includes magazines capable of firing more than 15 rounds, while Maryland includes magazines that can fire more than 20 rounds.
4. *States that Ban Manufacture, Transfer, Transportation and Possession of Large Capacity Magazines:* New Jersey and New York have the most comprehensive prohibitions, banning manufacture, transfer, transportation and possession of large capacity magazines. New Jersey allows possession of large capacity magazines by a

person who has registered an assault firearm and uses the magazine in connection with competitive shooting matches sanctioned by the Director of Civilian Marksmanship of the U.S. Department of the Army.⁸

5. *States that Ban Other Activities Related to Large Capacity Magazines:* Other states ban various combinations of activities related to large capacity magazines. Hawaii bans manufacture, transfer and possession; Massachusetts bans transfer and possession; California bans manufacture, transfer and importation; and Maryland bans manufacture and transfer.

6. *States that Grandfather Pre-Ban Magazines:* The Massachusetts ban exempts magazines that were lawfully possessed on September 13, 1994 (the date the federal ban took effect). The New York ban applies to only those magazines manufactured after September 13, 1994. As noted above,⁹ enforcement of laws grandfathering pre-ban magazines is difficult because most magazines do not contain any markings to identify those that were manufactured before or after the effective date of the ban.

SUMMARY OF SELECTED¹⁰ LOCAL LAWS BANNING LARGE CAPACITY AMMUNITION MAGAZINES

Local Laws Banning Large Capacity Ammunition Magazines

| | |
|----------------------|--|
| Boston | 1989 Mass. Acts 596, §§ 1-7 |
| Chicago | Chicago, Ill., Code §§ 8-20-030(i), 8-24-025 |
| Columbus | Columbus, Ohio, Code §§ 2323.11(F), 2323.32(A), (B)(2) |
| Los Angeles | Los Angeles, Cal., Municipal Code ch. V, art. 5, § 55.13 |
| New York City | New York, N.Y., Admin. Code §§ 10-131(i) 10-301(17), 10-306 |

Boston: With some exceptions, Boston prohibits possession, transfer, purchase and display of large capacity magazines and ammunition belts that can be used with semi-automatic rifles and shotguns. A large capacity magazine is defined as a box, drum or container which can hold more than 10 rounds of ammunition to be fed continuously into a semi-automatic rifle or shotgun. A large capacity ammunition belt is the same as a large capacity magazine except that the ammunition is held on a belt or strip. Magazines and belts which can be readily converted into large capacity versions are also banned.

⁸ New Jersey allows registration only of assault weapons with a legitimate target-shooting purpose. Additional information on New Jersey's assault weapon ban is contained in the section on [Assault Weapons](#).

⁹ See *supra* note 7 and accompanying text.

¹⁰ This section is based on research and analysis of existing firearms laws in: Boston, Massachusetts; Chicago, Illinois; Hartford, Connecticut; Los Angeles, California; Newark, New Jersey; New York, New York; Omaha, Nebraska; and San Francisco, California. LCAV selected these cities because they are located in states that grant local jurisdictions broad authority to regulate firearms. It also includes existing laws in Cleveland and Columbus, Ohio. Note, however, that in 2006, the Ohio Legislature passed House Bill 347 (overriding the Governor's veto), which created Ohio Rev. Code Ann. § 9.68(A), a provision that purports to preempt all local authority to regulate firearms with few, limited exceptions. Legal challenges to the law are pending. Additional information about state laws governing local authority to regulate firearms is contained in the section of this report titled "[The Legal Background.](#)"

Chicago: Chicago bans the transfer, acquisition or possession of any ammunition magazine having a capacity of more than 12 rounds.

Columbus: Columbus prohibits any person from knowingly possessing a large capacity magazine with a capacity of more than 20 rounds. Pre-ban magazines are grandfathered if the possessor has registered his or her assault weapon and the magazine “belongs to or is a part of” the registered weapon.¹¹

Los Angeles: Los Angeles prohibits the sale or other transfer of a clip, magazine, belt, drum, feed strip or similar device which has a capacity of, or which can be readily restored or converted to accept, more than 10 rounds of ammunition.¹²

New York City: New York City regulates ammunition feeding devices, which are defined as a magazine, belt, feedstrip, drum or clip that can be attached to or used with a firearm.

- *Ammunition feeding devices for use with handguns and short-barreled rifles and shotguns:* Subject to certain exceptions, New York City prohibits possession of ammunition feeding devices designed for handguns and short-barreled rifles and shotguns. One such exception allows handgun licensees to possess an ammunition feeding device designed for use in the handgun he or she is authorized to use, so long as the capacity of the device is not more than 17 rounds and the device does not extend below the handgun’s grip. Ammunition feeding devices designed for use in a handgun or short-barreled rifle or shotgun may not be transferred except between an authorized possessor and a dealer in handguns and short-barreled rifles and shotguns.
- *Ammunition feeding devices for use with rifles and shotguns:* Subject to limited exceptions, no person may possess an ammunition feeding device designed for use in a rifle or shotgun if the device has the capacity to hold more than five rounds of ammunition. Ammunition feeding devices designed for use in a rifle or shotgun may not be transferred except between an authorized possessor (a rifle or shotgun permit holder) and a dealer in rifles and shotguns.

FEATURES OF COMPREHENSIVE LAW BANNING LARGE CAPACITY AMMUNITION MAGAZINES

The features listed below are intended to provide a framework from which policy options may be considered and debated. LCAV has not attempted to include every provision or every creative approach identified in the analysis above, nor have we addressed appropriate exceptions so that the regulation does not produce unintended consequences. A jurisdiction considering modifying existing, or developing new legislation in this area

¹¹ Note that Columbus’s ordinance banning large capacity ammunition magazines predates the ban on assault weapons enacted by Columbus in 2005, and has not been revised subsequently.

¹² The Los Angeles ordinance was adopted in 1998. In 1999, the State of California adopted a similar law. San Francisco also prohibited firearms dealers from selling any ammunition clip or magazine with the capacity to contain more than 10 rounds of ammunition, but repealed the ordinance after the State of California adopted the state law.

should consult with counsel to ensure its legal sufficiency and compatibility with existing codes and statutes, as appropriate.

- Definition of “large capacity ammunition magazine” includes magazines capable of holding in excess of 10 rounds (*Hawaii, California, Massachusetts, New York, Boston, Los Angeles*)¹³
- Ban applies to large capacity ammunition magazines for use with all firearms (*California, Maryland, Massachusetts, New Jersey, New York, Chicago, Columbus, Los Angeles, New York City*)
- Prohibited activities include possession, sale, purchase, transfer, loan, pledge, transportation, distribution, importation, and manufacture of large capacity ammunition magazines (*New Jersey and New York are the most comprehensive, banning manufacture, transfer, transportation and possession*)
- No allowance for pre-ban magazines (*California,*¹⁴ *Hawaii, Maryland, New Jersey, Boston, Chicago, Los Angeles, New York City*)

¹³ While New York City does not define large capacity ammunition magazines based on the number of rounds they can hold, it does ban possession of large capacity ammunition feeding devices designed for use in a rifle or shotgun if the device has the capacity to hold more than five rounds. Possession of large capacity ammunition feeding devices for use in handguns is prohibited without regard to the capacity, although there is an exception for handgun licensees that allows possession of large capacity feeding devices so long as the capacity of the device is not more than 17 rounds and the device does not extend below the handgun’s grip.

¹⁴ Note, however, that California does not ban possession of large capacity ammunition magazines.