



Large Capacity Ammunition Magazines

Background

Automatic and semi-automatic firearms use detachable magazines or feeding devices 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 gun'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.

Large capacity magazines are a relatively new phenomenon. Prior to the 1980s, the most popular handgun design was the revolver, but during the 1980s the firearms industry shifted design and marketing toward high-capacity semiautomatic pistols.¹ In 1980, semiautomatic pistols accounted for only 32% of the 2.3 million handguns produced in America. By 1991, however, such pistols accounted for 74% of the 1.8 million handguns produced that year.²

Large capacity magazines are frequently used in mass shootings, including those which occurred in Tucson, Arizona, and at Columbine High School, Virginia Tech, Fort Hood, Texas, and the Pettit & Martin Law Offices at 101 California Street in San Francisco.³

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 magazine bans increase the capacity, and thus the potential lethality, of any firearm that can accept a large capacity magazine, including a firearm that is not

¹ Violence Policy Center, *Backgrounder on Glock 19 Pistol and Ammunition Magazines Used in Attack on Representative Gabrielle Giffords and Others* 1 (Jan. 2011), at http://www.vpc.org/fact_sht/AZbackgrounder.pdf.

² *Id.*

³ See Violence Policy Center, *Ten Examples of High-Profile Mass Shootings in the United States Involving High-Capacity Ammunition Magazines* (Jan. 2011), at http://www.vpc.org/fact_sht/VPCshootinglist.pdf, for a detailed list of major U.S. mass shootings involving large capacity magazines.

an assault weapon.⁴ Thus, a ban on large capacity magazines would reduce the capacity and lethality of many more firearms than would a ban on assault weapons alone.⁵

The public supports banning large capacity magazines. A national poll conducted for Mayors Against Illegal Guns in January 2011 found that 58% of Americans support a ban on the sale of high-capacity magazines.⁶

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 unlawful to transfer or possess a “large capacity ammunition feeding device” not lawfully possessed on or before the law’s enactment.⁷ The law also banned the manufacture, transfer and possession of semi-automatic assault weapons.⁸

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.”⁹

The ban contained a loophole, however, that allowed for the continued transfer and possession of large capacity ammunition magazines manufactured or possessed on or before enactment of the law.¹⁰ 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.

The federal law was enacted with a sunset clause, providing for its expiration after ten years. Congress 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,

⁴ 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. 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, U.S. Dep’t of Justice 6, 18 (June 2004).

⁵ 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 federal assault weapon ban in 1994, as compared with assault weapons, which accounted for 6% of gun crimes. Koper, *supra* note 4, at 18-19. Assault weapons make up only about 1% of the firearms estimated to be in civilian hands. Bureau of Justice Statistics Selected Findings, U.S. Dep’t of Justice, *Firearms, Crime, and Criminal Justice: Guns Used in Crime* 6 (July 1995).

⁶ American Viewpoint/Momentum Analysis, *Momentum Analysis & American Viewpoint National Survey (for Mayors Against Illegal Guns)* (Jan. 2011), available at http://www.mayorsagainstillegalguns.org/downloads/pdf/maig_poll_01_18_2011.pdf.

⁷ 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.

⁸ Additional information on assault weapons is contained in the policy summary on [Assault Weapons](#).

⁹ 18 U.S.C. § 921(a)(31)(A). “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).

¹⁰ For background, *see* 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).

military style assault weapons) that were formerly banned under the federal law are now legal unless banned by state or local law.

On January 18, 2011, in the wake of the shootings in Tucson, Arizona of Rep. Gabrielle Giffords and others, Rep. Carolyn McCarthy¹¹ introduced federal legislation to ban large capacity ammunition magazines that can accept more than ten rounds.

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. 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

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

¹¹ Rep. McCarthy's husband was killed, and her son severely injured, in the December 7, 1993 shootings on a Long Island, New York commuter train. The shooter used large capacity ammunition magazines with his pistol.

States that grandfather pre-ban magazines

California (possession)

Massachusetts (sale/transfer, offers for sale and possession)

New York (transfer, transportation and possession)

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 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 has the most comprehensive prohibitions, banning manufacture, transfer, transportation and possession of large capacity magazines.¹² Although New York also bans this conduct, it allows the transfer, transportation and possession of pre-ban magazines.
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:* While not explicit, California effectively grandfathers the possession of pre-ban large capacity magazines by keeping the possession of such magazines lawful. The Massachusetts ban exempts magazines that were lawfully possessed on September 13, 1994 (the date the federal ban took effect) and allows the sale or other transfer, offering for sale, and possession of such magazines. The New York ban applies to only those magazines manufactured after September 13, 1994, and allows the transfer, transportation and possession of pre-ban magazines.

¹² 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.

SUMMARY OF SELECTED¹³ JURISDICTIONS WITH LAWS BANNING LARGE CAPACITY AMMUNITION MAGAZINES

District of Columbia's Ban on Large Capacity Ammunition Magazines

[District of Columbia](#)

D.C. Code Ann. § 7-2506.01(b)

The District of Columbia prohibits the possession and sale or other transfer of large capacity magazines designed for use with any firearm. The District bans large capacity magazines capable of firing more than 10 rounds.

Municipal Laws Banning Large Capacity Ammunition Magazines

Boston

1989 Mass. Acts 596, §§ 1-7

Chicago

Chicago, Ill., Code §§ 8-20-10, 8-20-085

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 the 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.

Chicago: Chicago bans the transfer, offer or display for sale, 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.¹⁴

¹³ This section is based on research and analysis of existing firearms laws in: Washington, DC; 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 enacted Ohio Rev. Code Ann. § 9.68(A), a provision that preempts all local regulation of firearms with few, limited exceptions. The City of Cleveland challenged the law as a violation of its constitutional right to home rule. On December 29, 2010, in a 5-2 ruling, the Ohio Supreme Court rejected this challenge. The case was remanded to the Court of Appeals for consideration of a separate issue. The City is considering whether it will appeal this decision. Additional information about state laws governing local authority to regulate firearms is contained in chapter “[The Legal Background](#)” of LCAV’s Report *Regulating Guns in America: An Evaluation and Comparative Analysis of Federal, State and Selected Local Gun Laws* (2008).

¹⁴ 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.

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.¹⁵

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 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 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 (*District of Columbia, Hawaii, California, Massachusetts, New York, Boston, Los Angeles*)¹⁶

¹⁵ 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.

¹⁶ 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.

- Ban applies to large capacity ammunition magazines for use with all firearms (*California, District of Columbia, 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 has the most comprehensive prohibitions, banning manufacture, transfer, transportation and possession*)
- No grandfathering of pre-ban magazines (*Hawaii, Maryland, New Jersey, Chicago, Los Angeles, New York City*)

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