

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 13-cv-01300-MSK-MJW

JOHN B. COOKE, Sheriff of Weld County, Colorado, *et al.*,

Plaintiffs,

v.

JOHN W. HICKENLOOPER

in his official capacity as Governor of the State of Colorado,

Defendant.

**GOVERNOR’S BRIEF IN OPPOSITION TO PLAINTIFFS’ MOTION FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION
[DOCS. 29 AND 37]**

Defendant, Governor John W. Hickenlooper, by and through undersigned counsel, responds as follows to Plaintiffs’ motion for a temporary restraining order and preliminary injunction.

INTRODUCTION

During the 2013 legislative session the Colorado General Assembly adopted several firearms regulation measures, two of which—a limitation on the capacity of certain magazines (House Bill 13-1224) and an expansion of the background check requirement for firearms purchases (House Bill 13-1229)—are the subject of this lawsuit. Plaintiffs, a confederation of county sheriffs, firearms dealers, gun owners and others, filed suit against the Governor, asking this Court to declare both provisions unconstitutional and enjoin their enforcement.

Plaintiffs filed the instant motion less than three weeks before the legislation's effective date of July 1, 2013, seeking a preliminary injunction and a temporary restraining order against the enforcement of three provisions in the large-capacity magazine bill. They supplemented their motion on June 20, 2013.

Plaintiffs' motion is somewhat narrower than the relief sought in the First Amended Complaint. It does not challenge the core of HB 1224, which as of July 1, 2013 prohibits the new acquisition of magazines that can hold more than fifteen bullets. Nor does the motion challenge HB 1229, which expands the background check requirement for firearms purchases. The great bulk of Colorado's new gun control laws will therefore take effect, as planned, on July 1 regardless of the outcome of these preliminary proceedings.

Plaintiffs' motion for a preliminary injunction instead asserts that the following provisions of HB 1224 are unconstitutionally vague: 1) the prohibition on magazines that are "designed to be readily converted" to hold more than fifteen rounds; 2) the grandfather clause of HB 1224; and 3) the ban on "transfers" of large-capacity magazines after July 1, 2013. Plaintiffs also contend that these three provisions, when read broadly, violate the Second Amendment.

Firearms regulation became the subject of intense national debate in the wake of the mass murders in Aurora, Colorado, and Newtown, Connecticut in 2012. During legislative debate in Colorado, the bills challenged here were widely discussed and publicly criticized by, among others, many of the Plaintiffs in this case. Much of the rhetoric mirrored the allegations that now appear in the

Plaintiffs’ complaint and preliminary injunction motion—which argue, for example, that HB 1224’s prohibition on magazines that are “designed to be readily converted” to hold more than fifteen rounds amounts to a ban on virtually all functional semi-automatic firearms. To clear up this sort of widespread misconception about the intent and scope of HB 1224, the Governor’s signing statement rejected a broad interpretation of the bill, instead maintaining “that the large capacity magazine ban should be construed narrowly to ensure compliance with the requirements of the Second Amendment and the Due Process Clause of the 14th Amendment.” *See Ex. A.* The Governor went on to request that the Colorado Department of Public Safety, in consultation with the Attorney General, issue “Technical Guidance on how the law should be interpreted and enforced in Colorado.” *Id.*

The Attorney General released his official written interpretation of HB 1224 in the form of the Technical Guidance requested by the Governor the day before Plaintiffs filed this lawsuit. *See Ex. B.* The Technical Guidance directly addressed the two provisions of HB 1224 challenged here. Noting that “[t]he phrase ‘designed to be readily converted to accept more than fifteen rounds of ammunition’ has prompted questions regarding the scope of the definition,” the Technical Guidance acknowledged that there is a distinction between a magazine that *is capable* of being expanded to more than fifteen rounds, for example by the purchase of additional parts, and one whose objective features demonstrate that it has been *designed* for quick and ready expansion. Thus, the Technical Guidance rejected the notion Plaintiffs’ claims depend on: that a magazine meets the “designed”

requirement “simply because it includes a removable baseplate which may be replaced with one that allows the magazine to accept additional rounds.” *Id.* Such magazines, which constitute the bulk of those Plaintiffs worry about, do not fall within the scope of the law as interpreted by the Governor, the Attorney General, and the Department of Public Safety.

The Technical Guidance also addressed the grandfather clause of HB 1224, which permits one who “owns” a large-capacity magazine before July 1, 2013, to continue to keep and use it, provided that he or she “maintains continuous possession” of it thereafter. The Attorney General stated that the bill could not be reasonably construed as “barring the temporary transfer of a large-capacity magazine by an individual who remains in the continual physical presence of the temporary transferee,” and that “an owner should not be considered to have ‘transferred’ a large-capacity magazine or lost ‘continuous possession’ of it simply by handing it to a gunsmith, hunting partner, or an acquaintance at a shooting range with the expectation that it will be promptly returned.” *Id.*

Colorado law protects an individual from criminal liability for prohibited conduct if the conduct is permitted by “[a]n official written interpretation of the statute or law relating to the offense, made or issued by a public servant, agency, or body legally charged or empowered with the responsibility of administering, enforcing, or interpreting a statute, ordinance, regulation, order, or law.” Colo. Rev. Stat. § 18-1-504(2)(c). The guidance is the official written interpretation of not only the Attorney General and the Colorado Department of Public Safety, but also the

Governor—whom Plaintiffs have identified as being “the proper defendant” due to his constitutional responsibility “to ensure that all laws of the state are faithfully executed.” 1st Am. Compl. [Doc. 22], at ¶ 172. Thus, by the plain terms of subsection 18-1-504(2)(c), the Technical Guidance *is* binding. Moreover, this Court is in a position to ensure that it will remain so by virtue of the Governor’s proposal to stipulate to the entry of a preliminary injunction that is consistent with Technical Guidance’s interpretation of the challenged law. *See* Def.’s Mot. for Certification of Questions of Law to Colo. Sup. Ct. [Doc. 26].

Thus, in the Governor’s view, the preliminary injunction that the Plaintiffs request—one that depends on an unjustifiably broad reading of HB 1224 that no party to this case agrees is appropriate—is unnecessary.

ARGUMENT

I. Issuing a Temporary Restraining Order Would Be Inappropriate and Inequitable.

As a preliminary matter, Plaintiffs maintain in their supplemental brief that the Court may issue a temporary restraining order. Yet Plaintiffs acknowledge that Federal Rule of Civil Procedure 65(b)(1)(A) requires them to submit either “an affidavit or a verified complaint clearly show[ing] that immediate and irreparable injury, loss, or damage will result.” Pls.’ Suppl. Br. Regarding Pls.’ Standing & Other Issues Raised By the Court [Doc. 37], at 2. Since they have done neither, no evidence supports their request and the Court cannot issue a temporary restraining order. Nor does applying the label of “preliminary injunction” rather than “TRO” excuse the Plaintiffs from having to provide adequate evidence in support of their

motion. Plaintiffs “must present more than mere allegations” in order to secure provisional injunctive relief. *See Kansas City, Kansas Fraternal Order of Police, Lodge No. 4 v. Kansas City*, 620 F. Supp. 752, 768 (D. Kan. 1984). Although Plaintiffs need not “present all of their evidence” at this stage, *Valdez v. Applegate*, 616 F.2d 570, 572 (10th Cir. 1980), “[t]he burden is, of course, on the movant to establish his right to such relief,” *Penn v. San Juan Hosp., Inc.* 528 F.2d 1181, 1185 (10th Cir. 1975).

In addition, Plaintiffs’ reliance on out-of-Circuit authority highlights that Rule 65(b) only provides for the issuance of temporary restraining orders without notice to the other side. When notice is afforded, Rule 65(a) only provides for the issuance of a preliminary injunction. Thus, the plain language of the Rule indicates that temporary restraining orders are appropriate at the earliest possible stage to prevent “immediate and irreparable injury, loss, or damage . . . before the adverse party can be heard.” Fed. R. Civ. P. 65(b)(1)(A). Here, the Defendant will have been heard upon the filing of this responsive brief, and there is no possible injury to Plaintiffs until HB 1224 takes effect on July 1, 2013.

That nine days will pass until this Court’s docket allows for a hearing is a consequence of Plaintiffs’ own making. HB 1224 was signed by the Governor on March 20, 2013, *see* Exhibit A, and the Plaintiffs announced their plans to file this lawsuit shortly thereafter. *See* Tom McGhee, “Colorado Sheriffs Planning Lawsuit to Block New Gun Laws,” Denver Post (Apr. 9, 2013), *available at* <http://www>.

denverpost.com/breakingnews/ci_22988195/colorado-sheriffs-planning-lawsuit-block-new-gun-laws. Yet they did not file their complaint until May 17, 2013, and then waited until June 12, 2013 to move for an injunction and restraining order. *See RoDa Drilling Co. v. Siegal*, 552 F.3d 1203, 1211 (10th Cir. 2010) (noting that “delay in seeking preliminary relief cuts against finding irreparable injury”).

II. Plaintiffs Have Failed to Clearly and Unequivocally Show Entitlement to the Extraordinary Remedy of a Preliminary Injunction.

The dispute at issue in this preliminary stage is actually quite narrow and dependent on the interpretation of state law. *See generally* Doc. 26. Plaintiffs are attacking a straw man—a legal interpretation of HB 1224 that no one, and certainly not the Defendant or anyone under his control, is taking. Indeed, the Defendant has already officially adopted and continues to advocate a narrow, reasonable interpretation of HB 1224. Plaintiffs’ motion does not assert that this narrower reading of Colorado law violates the Constitution; instead, the Motion asks the Court to reject that narrower reading and instead adopt a broad, unconstrained reading of HB 1224 that turns on its head the judiciary’s “duty to construe statutes in a constitutional manner, and to save a statute, if possible, rather than strike it down.” *Kan. Judicial Review v. Stout*, 519 F.3d 1107, 1121 (10th Cir. 2008).

Given that the Defendant (as well as the Attorney General) has already bound himself to such an interpretation, Plaintiffs’ assertions of harm, as well as

their chances of prevailing on the merits, are inadequate to meet the exceptionally high burden required for an injunction of this sort.¹

A. Standards for injunctive relief.

Because a preliminary injunction is an extraordinary remedy, Plaintiffs must show that their right to this form of relief is clear and unequivocal. *Schrier v. Univ. of Colo.*, 427 F.3d 1253, 1258 (10th Cir. 2005). Plaintiffs, as movants, bear the burden of establishing that (1) they will suffer irreparable injury unless the injunction issues; (2) the threatened injury outweighs damage the proposed injury may cause the opposing party; (3) the injunction would not be adverse to the public interest; and (4) there is a substantial likelihood of success on the merits. *Id.*

It is the Plaintiffs' burden to establish that each of the first three factors tips in their favor. *Heideman v. S. Salt Lake City*, 348 F.3d 1182, 1188–89 (10th Cir. 2003). As Plaintiffs point out, in some cases where the moving party has established that the first three facts “tip *decidedly* in its favor, the ‘probability of success requirement’ is somewhat relaxed.” *Id.* at 1189.

This approach does not apply, however, in cases like this one, involving a pre-enforcement challenge to a state statute. As the Tenth Circuit has held, a party attempting to enjoin governmental action taken in the public interest pursuant to a

¹ The Court asked the parties to specifically address whether an injunction could bind the State of Colorado and all of its agents, see Fed. R. Civ. P. 65(d)(2)(B), when the Governor is the only named defendant. Plaintiffs cite dispositively to *American Civil Liberties Union v. Johnson*, 194 F.3d 1149, 1163 (10th Cir. 1999), for the proposition that an injunction against the Governor of New Mexico would bind that state's district attorneys. It is worth noting that the holding in *Johnson* is in tension with Plaintiffs' argument that the stipulated injunction already proposed by the Governor fails to protect them from rogue prosecutions.

statutory or regulatory scheme must satisfy the more rigorous “substantial likelihood of success” requirement regardless of the determination of the first three factors. *Id.* This is consistent with the Supreme Court’s longstanding skepticism of preliminary injunctions that restrain the enforcement of state statutes. *See Cavanaugh v. Looney*, 248 U.S. 453, 456 (1919); *Ex Parte Young*, 209 U.S. 123, 166–67 (1908). Here, Plaintiffs seek to enjoin a statute that was duly adopted by the Colorado General Assembly and signed by the Governor. Although they argue that the Court should apply a “fair ground for litigation” standard to the merits prong of their motion, Doc. 29 at 4, a heightened standard in fact applies. This Court should not issue a preliminary injunction unless Plaintiffs are able to establish that their right to an injunction is “reasonably free from doubt,” and that they will suffer a “great and irreparable injury” unless it is issued. *Ex Parte Young*, 209 U.S. at 166–67.

B. Standard of review and burden of proof.

Plaintiffs raise facial vagueness challenges to HB 1224, arguing that “designed to be readily converted” could be interpreted as referring to features common to a large majority of magazines that are compatible with semi-automatic handguns and rifles, and that as a consequence, Plaintiffs will not know which magazines are legal and which are not. Attempting to import the concept of “chilling” from First Amendment vagueness jurisprudence, Plaintiffs argue that implementation of the challenged language will result in the *de facto* prohibition of virtually all semi-automatic magazines, thereby also violating the Second

Amendment because, due to concerns about the statute's asserted vagueness, prospective owners will allegedly refrain from acquiring any magazines at all after the effective date.

In a similar manner, Plaintiffs facially challenge the "continuous possession" provision of the grandfather clause, complaining that "HB 1224 provides absolutely no guidance as to what 'continuous possession' actually *does* mean," and offering a parade of horrors intended to highlight alleged ambiguities in the statute and Technical Guidance. Doc. 29 at 18, 21–23.

"Facial challenges are strong medicine," and for that reason the Tenth Circuit Court of Appeals has cautioned that courts "must be vigilant in applying a most exacting analysis to such claims." *Ward v. Utah*, 398 F.3d 1239, 1246–47 (10th Cir. 2005). Vagueness challenges can take two forms: 1) claims that a law "fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits; or 2) claims that a law encourages arbitrary or discriminatory enforcement. *Doctor John's v. City of Roy*, 465 F.3d 1150, 1158 (10th Cir. 2006) (citing *Hill v. Colo.*, 530 U.S. 703, 732 (2000)). Arbitrary or discriminatory enforcement claims, however, cannot be brought as part of a pre-enforcement challenge at all. *See Gonzales v. Carhart*, 550 U.S. 124, 150 (2007). Pre-enforcement challenges such as this one, by definition do not involve evidence that the challenged law has been, or could be "enforced in a discriminatory manner or with the aim of inhibiting [constitutionally protected conduct]." *Hoffman Estates v. Flipside, Inc.*, 455 U.S. 489, 503 (1982). Thus, only the first type of claim is at issue

here. But to succeed, Plaintiffs must show, at a minimum, that the challenged law would be vague in the vast majority of its applications; that is, that “vagueness permeates the text of [the] law.” *Ward*, 398 F.3d at 1246–47 (citing *City of Chicago v. Morales*, 527 U.S. 41, 55 (1999)).

C. Plaintiffs have not shown that the asserted harm to them outweighs the State’s powerful interest in assuring the safety of Colorado’s citizens.

Plaintiffs argue that the balance of harms tips in their favor because, they allege, enforcement of the challenged provisions would: 1) require sheriffs “to make arrests or otherwise investigate possible crimes based on vague or facially unconstitutional language”; 2) cause dealers and other businesses to operate without certainty as to what magazines are legal; and 3) prevent owners of large-capacity magazines from treating those magazines as they always have in the past.

Plaintiffs claim that maintaining the status quo will not injure the state’s interests at all. But an injunction against a duly enacted state law frustrates the will of the citizens of that state, as expressed through their duly elected representatives. *See New Motor Vehicle Bd. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1351 (1977) (Rehnquist, J.) (denying application for stay as Circuit Justice, and noting state “suffers a form of irreparable injury” any time it “is enjoined by a court from effectuating statutes enacted by representatives of its people”).

The will of Colorado’s voters was expressed by the General Assembly in favor of protecting public safety. The State has a “*duty* under its inherent police power, to make reasonable regulations for the purpose of protecting the health, safety, and

welfare of the people.” *People v. Blue*, 544 P.2d 385, 390–91 (Colo. 1975) (emphasis added) (citing cases). The General Assembly passed the ban on high-capacity magazines in the wake of a mass shooting in Aurora, Colorado, in which the shooter used one or more high capacity magazines to kill 12 people and wound 58 more. Later that year, the shooter in Newtown, Connecticut also used a rifle equipped with large-capacity magazines to kill 26 people, 20 of whom were 6- and 7-year-old children. To be sure, the debate on HB 1224 was vigorous, and Plaintiffs plainly disagree that the bill appropriately addresses the public safety concerns that motivated its passage. But no matter how vehemently Plaintiffs disagree, HB 1224 is the judgment of the individuals and institutions that have the constitutional power to make policy judgments about how to protect the safety of Colorado’s citizens. The injury to the public interest if an injunction is issued would substantially outweigh the injuries that Plaintiffs assert they will suffer if the challenged provisions go into effect as the legislature intended.

D. Plaintiffs will not suffer irreparable injury if the Court declines to enjoin the challenged portions of HB 1224.

In their initial motion, Plaintiffs suggest three types of harm they fear if HB 1224 goes into effect: *per se* harm caused by alleged injury to their Second Amendment rights; “incalculable financial burdens” to the plaintiffs whose business interests will be affected by the law; and harm caused to the plaintiff sheriffs by their confusion about what the law asks them to do. In their supplemental brief, Plaintiffs provide further detail about these alleged harms, although they generally

new to the three broad categories identified in the original motion. Plaintiffs' additional allegations of harm include claims that:

- Licensed firearms dealers and Magpul (a manufacturer of magazines) face a credible threat of prosecution that will chill their exercise of their rights to buy and sell large capacity magazines, which for the dealers will be economically devastating. Doc. 37 at 6–9.
- Individual plaintiff David Strumillo currently owns large-capacity magazines, and will suffer a “chilling” effect as a result of the legislation, and will also be subject to criminal liability on July 1st because he is holding large-capacity magazines for a friend deployed overseas. *Id.* at 10.
- Individual plaintiffs David Bayne and Dylan Harrell will be unable to determine if their existing 15-round or less capacity magazines will be prohibited or if they will be able to purchase magazines of any size, thereby chilling their right to use firearms for home self-defense, target shooting, and hunting. *Id.* at 11.
- Plaintiff Outdoor Buddies will be unable to continue its practice of loaning firearms to individuals because it is unsure whether the magazines that it apparently loans along with those firearms qualify as large capacity magazines. *Id.*

- Plaintiff Hamilton Family Enterprises will lose revenue from magazine sales and a planned new range that may no longer be economically viable. *Id.* at 12–13.
- In their Supplemental Brief, the plaintiff sheriffs now announce that they are actually suing in both their official and personal capacities, and not, as the First Amended Complaint suggests, in their official capacities alone. *Id.* at 21. The Sheriffs thus claim that they are doubly injured, first by their purportedly conflicting obligations to follow both the Constitution and state statute, and second by the adverse effect that HB 1224 will allegedly have on their ability to effectively defend themselves and their families from the heightened threats inherent in their occupation. *Id.* at 21–22, 26.

Notably, all of these fears—at least to the extent that they rely on the statute’s ostensible vagueness—depend on ignoring or rejecting the possibility of a reasonable narrowing interpretation of the law, as has already been undertaken by the Technical Guidance. In other words, the harms alleged by Plaintiffs in their preliminary injunction motion would exist² only if this Court were to adopt Plaintiffs’ untenable interpretation of HB 1224. Any decision to adopt Plaintiffs’ interpretation that nearly all magazines and therefore nearly all firearms are

² Plaintiffs have not asserted any actual threats by any other entity to enforce the law in a manner inconsistent with the Guidance or otherwise in line with the extremely broad reading they offer up. In fact, many of the Plaintiffs are sworn law enforcement officers who have publicly announced that the challenged provisions are unenforceable in practice, and that in any event they will *refuse* to enforce them.

prohibited would by necessity require both rejection of the Technical Guidance and refusal to exercise judicial interpretive authority, either directly or through the certification process. The Technical Guidance, which interprets the phrase “designed to be readily converted” and explains the “continual physical presence” requirement, strikes a reasonable middle ground and draws a bright line rule that offers substantial certainty to high-capacity magazine owners and potential borrowers trying to comply with the law.

Moreover, even accepting the assertion that the impact on the business plaintiffs will be “incalculable,” such harms are not only speculative, but are quantifiable and therefore do not qualify as irreparable. *See Tri-State Generation & Transmission Ass’n v. Shoshone River Power, Inc.*, 874 F.2d 1346, 1354 (10th Cir. 1989). Those plaintiffs who are claiming that HB 1224 will harm their business interests surely track sales and inventory. Even assuming that a quantified loss in sales would occur, and even if it did, assuming that it would somehow amount to an injury at all, the fact that the business plaintiffs may not be able to predict with certainty what will happen after July 1 does not mean that any such injuries are irreparable or even difficult to calculate.³ Moreover, because the dealers claim only

³ Of course, it appears that the plaintiff dealers have actually enjoyed a substantial windfall from the legislation’s impending effective date. *See, e.g.*, Kim Bhasin, “Top Ammo Supplier Sells 3 1/2 Years Worth of Assault Rifle Magazines in 72 Hours,” *Business Insider* (Dec. 26, 2012), *available at* <http://www.businessinsider.com/brownells-magazine-sales-2012-12> (reporting online retailer’s “unprecedented” sales jump following Sandy Hook massacre). Moreover, even leaving that windfall aside, HB 1224 may very well lead to an *increase* in magazine sales for the dealers over the long term. Once the law goes into effect, if a gun owner wants to carry more

an economic impact, and cannot assert a direct Second Amendment infringement, this Court should apply the “less strict vagueness test” outlined in *Hoffman Estates*, 455 U.S. at 498 (noting that “economic regulation is subject to a less strict vagueness test because its subject matter is often more narrow and because businesses, which face economic demands to plan behavior carefully, can be expected to consult relevant legislation in advance of action”).

With respect to the alleged Second Amendment harms, Plaintiffs conflate the first prong of the preliminary injunction analysis with the last, claiming in essence that irreparable injury exists because the challenged portions of HB 1224 will violate their constitutional rights if implemented, thereby resulting in *per se* irreparable injury. Doc. 29 at 7. Even assuming that a deprivation of Second Amendment rights, however slight, can amount to a *per se* irreparable injury,⁴ Plaintiffs’ preliminary injunction motion fails to establish that the challenged

than 15 rounds of ammunition for his or her firearm, he or she will now have to buy multiple magazines instead of one.

⁴ This is far from a settled question. Although a deprivation of certain enumerated constitutional rights often is considered irreparable harm (most commonly under the First Amendment), courts around the country have consistently declined to import First Amendment equitable concepts wholesale into Second Amendment cases. *See, e.g., Kachalsky v. County of Westchester*, 701 F.3d 81, 92 (2nd Cir. 2012) (“[I]t would be . . . imprudent to assume that the principles and doctrines developed in connection with the First Amendment apply equally to the Second.”). This distinction has extended to the preliminary injunction context, in which courts have declined to conclude that a deprivation of asserted Second Amendment rights, standing on its own, automatically amounts to an irreparable harm. *See, e.g. Plastino v. Koster*, 2013 WL 1769088, at *9 (E.D. Mo. April 24, 2013); *but see Ezell v. City of Chicago*, 651 F.3d 684 (7th Cir. 2011). And for good reason—a state’s interest in protecting public safety is fundamentally different from its role in regulating speech.

language will cause any harm to their Second Amendment rights at all. Indeed, the core of the Second Amendment—the right to individual self-defense in the home—is not compromised at all by reasonable limitations on magazine size. *See Heller v. Dist. of Columbia*, 670 F.3d 1244, 1262 (D.C. Cir. 2011) (*Heller II*) (affirming, under intermediate scrutiny, a ten-round limitation on magazine size). A magazine is not a firearm, and with the exception of a few antiques, the Defendant is unaware of any gun necessary for self-defense that can only be fired with a magazine with a capacity greater than 15 rounds. Indeed, Plaintiffs do not even seek to preliminarily enjoin HB 1224’s outright ban on magazines that accept over 15 rounds at all. And in any event, there remain many handguns and other options for home defense that do not raise even the theoretical risk that Plaintiffs assert they fear.⁵

Even if the Second Amendment guaranteed a right to possess and use magazines holding more than fifteen rounds, there can be no dispute it is a personal right tied at its core to the defense of home and hearth. *See Dist. of Columbia v. Heller*, 554 U.S. 570, 635 (2008). The corporate plaintiffs, even assuming they enjoy the right to bear arms on equal footing with individual persons, allege the use and sale of high-capacity magazines for purposes other than direct self-defense. The

⁵ For example, some firearms such as revolvers do not utilize magazines to hold and advance ammunition into the firing chamber, and most such weapons accept fewer than 15 rounds. Moreover, not all magazines have removable baseplates that would possibly allow conversion to higher capacities. In any event, the Technical Guidance permits Coloradans to purchase semi-automatic firearms and use them with magazines that have removable baseplates. As Plaintiffs admit, this amounts to a huge proportion of commercially available magazines.

Second Amendment offers no guarantee to corporations a particular business market in firearms leisure, training, or enthusiasm. Absent is any allegation that HB 1224 would utterly eradicate any individual plaintiff's ability to obtain either the firearms or training necessary to defend himself.

If it is large-capacity magazines they prefer, every individual plaintiff in this case, including the sheriffs, may possess them after July 1st, provided that they obtained them before that date and maintain continuous possession of them thereafter. The grandfather clause of HB 1224 eliminates the possibility of any irreparable harm to any individual plaintiff who currently owns or desires to own magazines with a capacity greater than 15 rounds. *Cf. Salt Lake Tribune Publ. Co. v. AT&T Corp.*, 320 F.3d 1081, 1106 (10th Cir. 2003) (holding that self-inflicted harm is not irreparable). Simply being prohibited from purchasing and transferring large capacity magazines months after HB 1224 was enacted is not irreparable harm.

Plaintiffs also claim that "law enforcement," including the sheriffs, will suffer irreparable harm due to their alleged confusion about what the law means and their obligation "to commit facially unconstitutional acts, such as arresting someone who has left a magazine at a gunsmith for repair or cleaning." Doc. 29 at 8–9. Not only does this conflate the question of irreparable injury with the merits, it demonstrates a misunderstanding of sheriffs' authority to enforce duly enacted statutes, Colo. Rev. Stat. § 16-2.5-103(1), while fulfilling their duty to "keep and preserve the peace," Colo. Rev. Stat. § 30-10-516. HB 1224 is not a ban on all firearms or an

entire class of guns; it is a limitation on magazine capacity. As interpreted by the Technical Guidance, HB 1224 draws bright-line rules for law enforcement that could only be made vague by creating an absolute conflict with the Second Amendment that just does not exist.

Moreover, to the extent that Plaintiffs suggest that law enforcement might be financially liable for “commit[ting] facially unconstitutional acts” when complying with the statute, they not only ignore the protections available to them under principles of qualified immunity, but also the fact that any such damages, although exceptionally unlikely, would be compensable and therefore do not qualify as irreparable injury. “The doctrine of qualified immunity provides that [w]hen government officials are performing discretionary functions, they will not be held liable for their conduct unless their actions violate clearly established statutory or constitutional rights of which a reasonable person would have known.” *Mitchell v. Maynard*, 80 F.3d 1433, 1447 (10th Cir. 1996) (internal quotation marks and citations omitted). As discussed in detail below, HB 1224 is similar to many other provisions that have passed muster in other jurisdictions. Simply put, enforcement of the statute as written would come nowhere near to violating clearly established statutory or constitutional rights of which a reasonable person in the sheriffs’ position would have known. *See Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982).

Finally, the supplemental allegation that individual plaintiff Strumillo will become subject to criminal liability on July 1st because he is storing high-capacity magazines for a non-plaintiff friend fails to establish any irreparable injury. Doc.

37 at 10. To avoid criminal liability, Strumillo does not require an injunction; he has a number of options. Among other things, he could purchase or dispose of the magazines before July 1st, put them into a safety deposit box that the owner controls, or return the magazines to the owner's spouse, if any. According to the allegation, Strumillo has no ownership interest in the stored magazines.

Consequently, the only potential injury would be to his standing as perceived by his friend, which hardly calls for an injunction.⁶

E. Plaintiffs are unlikely to succeed on their facial challenge to the three provisions of HB 1224 that they seek to preliminarily enjoin.

Plaintiffs make two arguments to support their asserted likelihood of success on the merits on their facial challenges to HB 1224. First, they assert that the terms “designed to be readily converted” and “continuous possession” are unconstitutionally vague on their face. Second, they assert that those two phrases, as well as HB 1224's prohibition on “transfers” of large-capacity magazines, facially violate the Second Amendment. They have failed, however, to meet their burden of showing either argument has the requisite likelihood of success.

⁶ The Court has asked the parties to address the standing of any party for whom a harm is identified in conjunction with the motion for preliminary injunction. While the Governor has serious reservations about the Article III standing of several plaintiffs (particularly the sheriffs, who in their official capacities are subdivisions of the state, *see, e.g., Romer v. Bd. of County Comm'rs*, 956 P.2d 566, 574 (Colo. 1998)), he does not contest that at least one or more of the remaining plaintiffs has made a sufficient allegation of Article III standing to warrant the Court's exercise of subject matter jurisdiction at this early stage of the case. Because, as argued above, no plaintiff has established the type of harm that is a prerequisite to the issuance of a preliminary injunction, this Court need not reach the question of the Plaintiffs' standing at this time.

1. The challenged provisions of HB 1224 are not facially vague.

To succeed in their facial vagueness claim, Plaintiffs must show, at a minimum, that HB 1224 would “be vague in the vast majority of its applications.” *Doctor John’s*, 465 F.3d at 1157. The law need not be free from any hint of ambiguity to survive Plaintiffs’ facial vagueness challenge. “[A] statute with some arguably vague elements is not automatically vague on its face in violation of the Fourteenth Amendment.” *Dias v. City & County of Denver*, 567 F.3d 1169, 1180 (10th Cir. 2009); *see also Hejira Corp. v. MacFarlene*, 660 F.2d 1356, 1367 (10th Cir. 1981) (“We acknowledge that it is not necessary for reasonable men to consistently reach the same conclusion in applying objective standards to a given factual situation. Thus, the fact that different minds may reach different results when seeking to determine whether a given object falls within the statutory definition of drug paraphernalia does not render the statute void for vagueness.”).

Plaintiffs’ likelihood-of-success argument relies on the misplaced assumption that this Court (and, for that matter, any court that might apply HB 1224) will adopt extreme interpretations of HB 1224 that the Governor, the Colorado Department of Public Safety, and the Attorney General have formally rejected. For example, Plaintiffs assert that “[HB 1224] effectively outlaws or disables 82% of currently-manufactured handguns and a large fraction of rifles”⁷ because it makes

⁷ As explained below, this conflates regulation of magazines, which can be replaced, with the weapons themselves. Many handguns and rifles do, indeed, accept magazines, and many of those magazines do, indeed, have removable baseplates. But magazines can be and are made that do not have removable baseplates, so even under Plaintiffs overly broad interpretation of the magazine restrictions, there is no

unlawful *any* magazine with a removable base plate. Doc. 29 at 20. They further reject a “reasonable, every-day” reading of “continuous possession” that would allow gun owners to temporarily transfer their grandfathered large-capacity magazines for lawful purposes such as repair or target practice. *Id.* at 17. This unjustified position ignores that federal and state courts have “a duty to construe statutes in a constitutional manner, and to save a statute, if possible, rather than strike it down.” *Stout*, 519 F.3d at 1121; indeed, it depends on this Court doing just the opposite. A reasonable reading of HB 1224—like the one embodied in the Technical Guidance—would allow gun owners to reasonably use their firearms with a variety of commercially-available magazines. Plaintiffs cannot earn an injunction by foisting an untenable interpretation of HB 1224 on the public, Colorado law enforcement officials, and this Court. *See United States v. McGarity*, 669 F.3d 1218, 1235 (11th Cir. 2012) (“[T]he defendants’ purportedly absurd constructions of [the statute] do not require us to invalidate the statute wholesale.”).

- a) **“Designed to be readily converted” is not vague in the vast majority of its applications, and the Supreme Court has held that the term “designed” can constitutionally define unlawful conduct.**

Plaintiffs assert that “[d]esigned to be readily converted’ is a term that does not exist in Colorado statutes,” and “HB 1224 provides no hint about what the term means.” Doc. 29 at 13. Federal and state courts, however, routinely encounter

reason that *any* handgun or rifle that accepts removable magazines will be outlawed or disabled. The only types of weapons that actually would be effectively disabled are those that cannot take new magazines. Defendant believes that these are few, and Plaintiffs have not asserted claims about any of them. And as noted, even these are not outlawed or disabled—only their sale or transfer is. *See supra* n.5.

statutory terms that are not specifically defined. The response is to engage in the routine task of statutory interpretation, not to invalidate undefined terms, even those that may contain some ambiguous potential applications. *See, e.g., United States v. Graham*, 305 F.3d 1094, 1101-03 (10th Cir. 2002) (applying rules of statutory construction to undefined terms in federal firearms statute). In the context of a facial vagueness challenge, this surgical approach must prevail over Plaintiffs' blunt method of doing away entirely with legislatively-enacted language simply because a troublesome interpretation could be imagined. *See Stout*, 519 F.3d at 1121; *see also Robertson v. City & County of Denver*, 874 P.2d 325, 334 (Colo. 1994). Exercising caution of this type is consistent with the Supreme Court's traditional skepticism of facial challenges. For example, in *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442 (2008), the court declined the plaintiffs' invitation to facially invalidate the statute, holding:

In determining whether a law is facially invalid, we must be careful not to go beyond the statute's facial requirements and speculate about 'hypothetical' or 'imaginary' cases. The State has had no opportunity to implement I-872, and its courts have had no occasion to construe the law in the context of actual disputes arising from the electoral context, or to accord the law a limiting construction to avoid constitutional questions. Exercising judicial restraint in a facial challenge 'frees the Court not only from unnecessary pronouncement on constitutional issues, but also from premature interpretations of statutes in areas where their constitutional application might be cloudy.

Id. at 449-50. The federal circuits have taken a similar approach. *See, e.g. Tex. Med. Providers Performing Abortion Servs. v. Lakey*, 667 F.3d 570, 580 (5th Cir.

2012) (“As we are ‘[c]ondemned to the use of words, we can never expect mathematical certainty from our language.’ Our analysis therefore cannot focus upon the marginal cases in which an ordinarily plain statutory command can nonetheless yield some mote of uncertainty.”) (quoting *Hill*, 530 U.S. at 733); *Wag More Dogs, LLC v. Cozart*, 680 F.3d 359, 371 (4th Cir. 2012) (“[O]ur task is not to dream scenarios in which a regulation might be subject to a successful vagueness challenge. The Supreme Court has instructed that ‘speculation about possible vagueness in hypothetical situations not before the Court will not support a facial attack on a statute when it is surely valid in the vast majority of its intended applications.’”) (quoting *Hill*, 530 U.S. at 733).

Using traditional tools of statutory interpretation, the phrase “designed to be readily converted” is much narrower than Plaintiffs assert it to be, and it certainly does not, under any reasonable reading, ban all “box and tube magazines [that] contain removable base plates and end caps.” Doc. 29, at 2.

(1) “Designed”

“A principal meaning of ‘design’ is ‘[to] fashion according to a plan.’” *Hoffman Estates*, 455 U.S. at 501 (quoting *Webster’s New Int’l Dictionary of the English Language* 707 (2d ed. 1957)). “Designed is clear in its meaning, which is that the item is predetermined for a particular use.” *Hejira Corp.*, 660 F.2d at 1362. Moreover, in applying this definition, an item must be judged “by virtue of its objective features, *i.e.*, features designed by the manufacturer.” *Hoffman Estates*, 455 U.S. at 501.

Plaintiffs' argument mirrors that of the decision reversed by the Supreme Court in *Hoffman Estates*:

“The Court of Appeals objected that ‘designed . . . for use’ is ambiguous with respect to whether items must be inherently suited only for drug use; whether the retailer’s intent or manner of display is relevant; and whether the intent of a third party, the manufacturer, is critical, since the manufacturer is the ‘designer’ [W]e conclude that this language is not unconstitutionally vague on its face.

The Court of Appeals’ speculation about the meaning of ‘design’ is largely unfounded.

Id. at 500.

In *Hoffman*, the Court recognized that it is not the intent of the manufacturer that governs the analysis, but the objective features of the regulated item that control. The Court explained that it is “plain that the standard encompasses at least an item that is principally used with illegal drugs by virtue of its objective features, *i.e.*, features designed by the manufacturer” and that this objective standard would not cover “items which are principally used for nondrug purposes, such as ordinary pipes, are not ‘designed for use’ with illegal drugs.” *Id.* at 501. The same reasoning applies here, where it is plain that items whose features show they are principally meant to be readily converted into larger-capacity magazines are within the standard, while those that are typically included for other purposes, such as removable baseplates, are not.

“The crux” of Plaintiffs vagueness argument “is that [HB 1224] requires ordinary citizens and Sheriffs to know the intent of a magazine’s designer.” Doc. 29 at 14. This might indeed be troubling, if it were true. Happily, it is not. “Designed”

is a not uncommon term in the law, and it has been upheld against vagueness challenges repeatedly, including in some cases involving language very similar to that challenged here.

For example, in *Richmond Boro Gun Club v. City of New York*, 97 F.3d 681 (2d Cir. 1996), the plaintiff organization challenged a New York City ordinance that criminalized the possession or transfer of assault weapons within the city, arguing in part that the ordinance’s definition of “assault weapon” was unconstitutionally vague. The challenged portion of the statute defined an “assault weapon” as “[a]ny part, or combination of parts, *designed or redesigned or intended to readily convert* a rifle or shotgun into an assault weapon.” *Id.* at 683 (quoting ordinance) (emphasis added). The plaintiffs contended that “a rifle manufacturer’s intent in designing a gun may not easily be discernible from the mere appearance of a weapon.” *Id.* at 685. Relying on the Supreme Court’s opinion in *Hoffman Estates*, however, the Second Circuit held that “the ‘designed’ standard,” in the context of drug paraphernalia, encompassed “at least an item that is principally used with illegal drugs by virtue of its objective features.” *Richmond Boro Gun Club*, 97 F.3d at 685 (quoting *Hoffman Estates*, 455 U.S at 501). The Second Circuit then affirmed the trial court’s opinion that the evidence in the record demonstrated that “the objective features of at least some of these firearms clearly bring them within the ‘designed’ standard” of the challenged ordinance. *Richmond Boro Gun Club*, 97 F.3d at 686. The court thus rejected the plaintiffs’ facial vagueness challenge.

A similar phrase is also used to define “machine gun” for purposes of federal law. The statute defines a machine gun as “any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.” 28 U.S.C. § 5845(b). The language of that definition, along with similar language found in several other closely related federal statutes that use similar language, has been upheld against vagueness challenges. *See, e.g., United States v. M-K Specialties Model M-14 Machinegun Serial #1447797*, 424 F. Supp. 2d 862, 872 (N.D. W. Va. 2006) (“The claimants, however, have cited no case that strikes down any such provision in § 5845 as unconstitutionally vague. . . . Section 5845(b) provides fair notice to a person of ordinary intelligence that certain conduct is forbidden by the statute. Therefore, the Court finds that the phrase ‘can be readily restored’ is not unconstitutionally vague.”).

In light of this case law, the Colorado General Assembly cannot be said to have intended that the term “designed” must rest on the intent of some unknown manufacturer. Indeed, that is the thrust of Colorado law. Relying on *Hoffman Estates*, the Colorado Supreme Court has held that the term “designed” *cannot* be judged based on the intent of a third party; the objective characteristics of a particular item govern the inquiry. *See High Gear & Toke Shop v. Beacom*, 689 P.2d 624, 632 (Colo. 1984). The Colorado Supreme Court has adhered to this point in the context of firearm regulation, rejecting the notion that an ordinary person could be expected to intuit or research the “design history” of a particular gun in

order to independently assess whether it was prohibited by the challenged city ordinance. *Robertson*, 874 P.2d at 334.

The Colorado General Assembly is presumed to be aware of these cases. *See e.g., Thompson v. People*, 510 P.2d 311, 313 (Colo. 1973), and the state Legislature intends to pass laws that comply with the Colorado and United States Constitutions, Colo. Rev. Stat. § 2-4-201(1)(a). Thus, while Plaintiffs are generally correct that a statute requiring individuals to discern another’s subjective intent can be vague, as a matter of law, it is beyond dispute that this is not what the Colorado General Assembly can be assumed to have intended.

(2) “Readily converted”

“Readily,” meanwhile, means “in a prompt manner” or “in a manner indicating or connoting ease.” *Am. Heritage Dictionary* 1159 (4th ed. 2004). “[M]ost notably,” the term connotes “speed, ease, and efficiency.” *United States v. One TRW, Model M14, 7.62 Caliber Rifle*, 441 F.3d 416, 421 (6th Cir. 2006) (quoting *Webster’s Third New Int’l Dictionary* 1889 (1981)).

Finally, “converted” means “to change (something) from one use, function, or purpose to another.” *Am. Heritage Dictionary* 313.

(3) “Designed to be readily converted”

Thus, the entire phrase “designed to be readily converted” means a magazine that, judged by its objective features, reveals that it is typically used in a way that is quickly, easily, and efficiently changed from accepting 15 rounds or fewer to more

than 15 rounds. Applied to specific ammunition magazines, this legal standard easily distinguishes between those that are prohibited and those that are lawful:

- **Telescoping Magazine** (*see* Ex. C): An expandable magazine that with the depression of a single tab, telescopes to a larger-capacity configuration would be a “large capacity magazine” if the magazine accepted more than 15 rounds of ammunition in its telescoped state.⁸
- **20-Round AR-15 Magazine with Removable Limiter** (*see* Ex. E): A 20-round magazine with a removable limiter that temporarily prevents it from accepting more than 15 rounds is a “large capacity magazine.” This is because the only reason to remove the limiter would be to increase the capacity of the magazine. Judged objectively, a removable limiter is designed to enable the magazine to be readily converted from a 15-round to a 20-round configuration.
- **30-Round AR-15 Magazine with Permanently-Affixed Limiter** (*see* Ex. F): A similar limiter that has been welded or epoxied to the frame of the 30-round magazine such that the limiter cannot be removed is not a “large capacity magazine.” Not only is this magazine not “designed to be readily converted to accept more than 15 rounds of ammunition”; it has been “permanently altered” to comply with HB 1224.
- **Standard Box Magazine with Removable Baseplate** (*see* Ex. G): The type of magazine that Plaintiffs most fear would be rendered illegal by HB 1224 is a standard magazine with a removable base plate that accepts 15 or fewer rounds. These types of magazines are *not* large capacity magazines. The baseplates themselves do not enable the magazines to be

⁸ The Governor is not aware of a magazine currently in production that telescopes from a less-than-15-round configuration to a greater-than-15-round configuration. HB 1224, however, was written to ensure that future innovations in the market could not easily circumvent the 15-round limit on ammunition magazines. *See Exotic Coins, Inc. v. Beacom*, 699 P.2d 930, 945 (Colo. 1985) (explaining that although statute must define criminal offense with sufficient definiteness to give fair warning of prohibited conduct, it must also be general enough to address problem under varied circumstances and during changing times). Experience in other states has shown that some retailers and purchasers will try to exploit any actual or perceived loophole in such regulations. *See* Ex. D (San Francisco City Attorney press release announcing lawsuit against importers of large-capacity magazine “repair” kits).

expanded, and they serve functions aside from expansion—notably, they allow the magazine to be cleaned and repaired. To actually convert them to higher capacity, one must purchase additional equipment or permanently alter their operation mechanically. Unless so altered, they are not prohibited.

- **Magazine coupler** (*see* Ex. H): A coupler that physically attaches two magazines together (an effect that could be accomplished just as easily with a few inches of duct tape), and “allows the user to attach two magazines together for more efficient speed reloads,” would not create a single large-capacity magazine. Because the second magazine must be inserted into the firearm separately—and only after the first magazine has been exhausted—this accessory does not convert two complying magazines into one non-compliant magazine.

Plaintiffs’ baseless assumption that HB 1224 is broad enough to prohibit not just large-capacity magazines, but “82% of currently-manufactured *handguns*,” Doc. 29 at 20 (emphasis added), illustrates how unreasonably they have interpreted the statute’s language.⁹ *See Heller II*, 670 F.3d at 1262 (“[T]he prohibition of semi-automatic rifles and large-capacity magazines does not effectively disarm individuals or substantially affect their ability to defend themselves.”). First, many magazines are interchangeable and replaceable; it does not follow from the prohibition of a particular magazine that any firearm to which it may be attached is also prohibited. The law may “contain ambiguities,” but a “person of ordinary intelligence” still has a “reasonable opportunity to know what is prohibited,” and

⁹ Plaintiffs also unreasonably read the Technical Guidance. They first claim that “a person may not be aware” that a particular feature of a magazine was designed to allow ready expansion. *Id.* at 15. Under the framework described above, a person of “ordinary intelligence” would be able to fairly distinguish between a magazine objectively “designed” for use with more than 15 rounds and one not so designed. *Cf. Hoffman Estates*, 455 U.S. at 500–02. Second, they claim that “[n]either the gun-owning public nor law enforcement have any means of discerning the designer’s specific intent.” Doc 29 at 15. As explained above, “the designer’s specific intent” is irrelevant; the test turns on the objective features of a particular magazine.

the danger of “arbitrary and discriminatory enforcement” is minimized. *Hoffman Estates*, 455 U.S. at 498 (quoting *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972)); *see also Hejira Corp.*, 660 F.2d at 1367. And in the unlikely event that the purported ambiguities remained after applying the rules of statutory construction, any danger that HB 1224 would lead to unpredictable and unjust convictions would be virtually eliminated by: 1) application of the affirmative defense in Colo. Rev. Stat. § 18-1-504(2)(c); 2) the availability of an as-applied challenge; or 3) as a last resort, application of the rule of lenity, which ensures that ambiguities in a criminal statute must be interpreted in favor of the defendant. *See, e.g., People v. Thoro Products Co.*, 70 P.3d 1188, 1198 (Colo. 2003).

b) “Continuous Possession” is not vague in the vast majority of its applications, and Plaintiffs cannot prevail by rejecting common-sense interpretations of the term.

Plaintiffs similarly claim that because HB 1224 “provides absolutely no guidance as to what ‘continuous possession’ actually *does* mean, the phrase is unconstitutionally vague.” Doc. 29 at 18. They again make little attempt to define the term, preferring it to be struck down rather than reasonably construed. While they proffer several allegedly “reasonable, every-day interpretations,” which would “not require [a large capacity magazine owner] to maintain literally continuous possession of the property” or to “physically possess the [magazine] at every moment of every day,” Doc. 29 at 16–17 (citing Colo. Rev. Stat. §§ 39-26-102, -713(1)(a); *Martini v. Smith*, 18 P.3d 776, 781 (Colo. App. 2000)), Plaintiffs dismiss them out of hand, This Court need not and should not do so.

There is nothing vague about the “continuous possession” requirement. The chief definition of “possession” is “the fact of having or holding property in one’s power; the exercise of dominion over property.” *Black’s Law Dictionary* 1281 (9th ed. 2009). “Continuous” simply means “uninterrupted in time, sequence, substance, or extent.” *Am. Heritage Dictionary* 310.

Applying these principles to avoid the horrors paraded by Plaintiffs has already been done. The Technical Guidance creates a bright line rule—and a safe harbor until the meaning of the provision is definitively determined by Colorado courts—that offers substantial certainty to large-capacity magazine owners (and borrowers) who wish to comply with the law. Under the guidance, if a person remains in the physical presence of the magazine, or ensures that the magazine is secured while the individual is absent, the “continuous possession” requirement is satisfied. Merely holding or even firing bullets from another’s magazine in that person’s physical presence is not a transfer and does not break the owner’s continuous possession. Nor can there be any genuine confusion about use of grandfathered magazines by a spouse. *See* Colo. Rev. Stat. 14-10-113 (defining “marital property” and providing that anything acquired during marriage other than inheritance or gift is property of both people in marriage); *see also* Colo. Rev. Stat. § 14-15-107(5)(a) (importing definition of “marital property” to civil unions). The Governor, meanwhile, asks that the Court, faced with this broad-based constitutional challenge, follow the normal course: construe the law in a way that ensures it will be applied constitutionally. The Court’s role is not to strike down HB

1224 if there is a possibility that it can be interpreted to be consistent with the Constitution. *See People v. Longoria*, 862 P.2d 266, 270 (Colo. 1993) (“when reviewing a statute upon a challenge of unconstitutionality due to vagueness, the duty of the reviewing court is to construe the statute so as to uphold its constitutionality whenever a reasonable and practical construction may be applied to the statute”); *Stout*, 519 F.3d at 1121. Instead, when evaluating a statute that is subject to several interpretations, the Court must select the one that best harmonizes both legislative intent and constitutional requirements. *See People v. R.M.D.*, 829 P.2d 852, 853 (Colo. 1992).

The question at this stage is whether Plaintiffs have met their heavy burden to show that “continuous possession,” in the vast majority of its applications, is so vague that it simply cannot be enforced. Plaintiffs have failed to do so. They are not entitled to a preliminary injunction striking down the “continuous possession” requirement of HB 1224 as unconstitutionally, and facially, vague.

2. The Second Amendment does not prevent reasonable restrictions on the size of ammunition magazines.

Plaintiffs’ second argument is that three provisions of HB 1224— “designed to be readily converted,” “continuous possession,” and “transfer”—are so onerous that they will prevent gun owners from exercising their Second Amendment right to defend their homes. Again, Plaintiffs reach this conclusion by reading HB 1224 unreasonably, transparently seeking to invalidate the statute rather than to find ways to apply it in a constitutional manner. At least for the purposes of their motion, they do not challenge the statute otherwise.

a) HB 1224 does not “ban” small magazines.

The mere existence of a removable base plate does not change a less-than-16-round magazine into a “large-capacity” magazine. As explained above, the term “designed to be readily converted” contemplates design features specifically intended to increase magazine capacity, not features that may exist for purposes such as maintenance. Yet Plaintiffs insist that HB 1224 “outlaws or disables 82% of currently-manufactured handguns” because it prohibits “some or most magazines of 15 rounds or fewer.” Doc. 29 at 20.

If, like the law struck down in *Heller*, the intent and effect of HB 1224 were to absolutely *ban* a large majority of handguns and make them entirely unusable for self-defense, HB 1224 would likely violate the Second Amendment.¹⁰ *See Heller*, 554 U.S. at 628–29 (“The prohibition extends, moreover, to the home, where the need for defense of self, family, and property is most acute. Under any of the standards of scrutiny that we have applied to enumerated constitutional rights, banning from the home ‘the most preferred firearm in the nation to ‘keep’ and use for protection of one’s home and family’ would fail constitutional muster.”) (internal citations and footnotes omitted).

¹⁰ The Governor does not concede that regulation of ammunition magazines always triggers the Second Amendment, nor does he concede that HB 1224’s narrow restrictions do so. But he agrees that a state may not circumvent the Second Amendment by regulating magazines and ammunition in such a way as to make guns completely unusable for home defense. *Cf. Ezell*, 651 F.3d at 711–13 (Rovner, J., concurring).

But no party to this lawsuit claims that HB 1224 could or will be applied in that manner.¹¹ As already noted, because plentiful ammunition options exist for virtually every semi-automatic firearm, banning a certain magazine – or even, applying Plaintiffs’ untenable approach, a large subset of what is commercially available – would come nowhere near rendering the firearm itself useless. In any event, the Governor has repeatedly offered to stipulate to an injunction that would memorialize, and make judicially binding on him and his agents, a more reasonable interpretation of the law that would be available to individuals as an affirmative defense against any rogue prosecution. This interpretation would allow individuals to purchase and possess a wide range of commercially-available magazines that accompany many firearms used for self-defense, including those at issue in *Heller*.

A facial challenge is not a license to indiscriminately strike down a statute duly passed by a state legislature and signed by a state’s governor. Nothing about HB 1224 suggests an intent on the part of the legislature to prevent the use of firearms for home and self defense. Plaintiffs have failed to establish that HB 1224 “is incapable of valid application.” *Dias*, 567 F.3d at 1179–80. Their facial Second Amendment claim does not establish the likelihood of success necessary to justify a preliminary injunction.

¹¹ And indeed, Plaintiffs have not made any allegation that any law enforcement source anywhere believes the law should be so interpreted and applied.

b) The “continuous possession” requirement and the prohibition on “transfers” of large-capacity magazines do not infringe the Second Amendment right of self-defense.

Plaintiffs’ Second Amendment challenge to the terms “continuous possession” and “transfer” in HB 1224 likewise fail to justify the extreme remedy of a preliminary injunction. As an initial matter, Plaintiffs have not, at this stage, sought to enjoin the application of HB 1224 to magazines that are currently capable of accepting more than 15 rounds of ammunition. On July 1, individuals will be unable to purchase, and the plaintiff dealers will be unable to sell, new magazines that accept over 15 rounds absent after-market alteration. These preliminary proceedings, as framed by Plaintiffs, will not change that fact.

Plaintiffs have instead chosen to attack the grandfather clause of HB 1224, a provision that seeks to *accommodate* the use of large-capacity magazines for those who owned them before the law’s effective date. The General Assembly could have chosen to ban large capacity magazines entirely, as the District of Columbia did in a statute passed in the wake of the Supreme Court’s decision in *Heller*. That law prohibits, without any exceptions and without a grandfather clause, magazines that accept more than ten rounds of ammunition, D.C. Code § 7-2506.01, and as noted above, was recently upheld by the D.C. Circuit in *Heller II*.

Yet Plaintiffs claim that HB 1224, a much more modest statute, “ban[s] functional firearms in the home.” Doc. 29 at 23. They allege a number of hypothetical situations that they claim would violate the “continuous possession” requirement and run afoul of HB 1224’s prohibition on “transfers” of large capacity

magazines. These, they say, illustrate a “widespread criminalization of the most innocuous and otherwise lawful transfers and uses of ordinary firearms and firearm magazines.” *Id.* at 23.

This is hyperbole. Nothing in HB 1224 bans “functional firearms.” Those who own a firearm with a large-capacity magazine, and wish to transfer it to a friend or family member without triggering HB 1224 at all, may simply purchase a magazine that accepts 15 or fewer rounds. Indeed, Plaintiffs may purchase as many 15-round magazines as they please, and transfer each of them to a friend or family member along with the firearm that goes with them. Alternatively, Plaintiffs may “permanently alter” their large-capacity magazines to ensure they accept no more than 15 rounds of ammunition and then transfer them without restraint. Plaintiffs do not allege that all of their firearms will not “function” with a 15-round magazine—nor could they credibly do so. Plaintiffs cannot invalidate a statute simply because it attempts to *accommodate* their desire to own large-capacity magazines. *Cf. Heller*, 554 U.S. at 636 (“We are aware of the problem of handgun violence in this country, and we take seriously the concerns raised by the many amici who believe that prohibition of handgun ownership is a solution. The Constitution leaves the District of Columbia a variety of tools for combating that problem”) (emphasis added); *Heller II*, 670 F.3d at 1268 n.** (“[A] number of states and municipalities, representing over one fourth of the Nation’s population, ban semi-automatic rifles or assault weapons, and these bans are by no means ‘significantly narrower’ than the District’s ban.”).

In any event, Plaintiffs again seek to invalidate HB 1224 rather than suggest an interpretation of it that would address their purported Second Amendment objections. Even if the “continuous possession” requirement and the prohibition on “transfers” did amount to a “ban” on “functional firearms” under Plaintiffs’ expansive reading, Plaintiffs fail to explain why a narrower reading would not save the statute.

CONCLUSION

For the reasons stated and authorities cited above, the Defendant requests that this Court deny Plaintiffs’ motion for a preliminary injunction.

Respectfully submitted this 24th day of June, 2013.

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CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2013 I served a true and complete copy of the foregoing GOVERNOR'S BRIEF IN OPPOSITION TO PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION upon all counsel of record listed below via the CM/ECF system for the United States District Court for the District of Colorado:

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s/ Matthew D. Grove

STATEMENT OF GOVERNOR JOHN W. HICKENLOOPER

ISSUED MARCH 20, 2013 UPON THE SIGNING OF HB13-1224

In signing HB13-1224, we acknowledge that some have expressed concerns about the vagueness of the law's definition of "large-capacity magazine." By its terms, the law does make illegal any magazine manufactured or purchased after July 1, 2013 that is capable of accepting, or is designed to be readily converted to accept, more than fifteen rounds of ammunition. Similar language is used in other states' statutes limiting large-capacity magazines. We know that magazine manufacturers have produced and sell magazines that comply with these other state laws that limit large-capacity magazines and we are aware of no successful legal challenges to those laws. And when a Colorado-based magazine manufacturer came to us to share their concerns about the vagueness of the definition of "large-capacity magazine" contained in the original version of the bill, we worked with the bill's sponsors to fine-tune the definition to make it more precise.

We also have heard concerns about the requirement in the law that a person who owns a large-capacity magazine prior to the law's enactment may legally possess that magazine only as long as he or she "maintains continuous possession" of it. We do not believe a reasonable interpretation of the law means that a person must maintain continuous "physical" possession of these items. Responsible maintenance and handling of magazines obviously contemplates that gun owners may allow others to physically hold and handle them under appropriate circumstances. We are confident that law enforcement and the courts will interpret the statute so as to effectuate the lawful use and care of these devices.

In considering the language of HB13-1224, we have consulted with the Office of the Attorney General and we concur with its advice that the large-capacity magazine ban should be construed narrowly to ensure compliance with the requirements of the Second Amendment and the Due Process Clause of the Fourteenth Amendment. We have signed HB13-1224 into law based on the understanding that it will be interpreted and applied narrowly and consistently with these important constitutional provisions.

To this end, today we are directing the Colorado Department of Public Safety to consult with the Office of the Attorney General and others, as necessary, with respect to the interpretation of HB13-1224's large-capacity magazine ban, and then to draft and issue, to law enforcement agencies in the State of Colorado, technical guidance on how the law should be interpreted and enforced. This work should be done by July 1, 2013, the law's effective date.



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May 16, 2013

Colorado Department of Public Safety
Executive Director James H. Davis
700 Kipling Street, 3rd Floor
Denver CO 80215

RE: Technical Guidance on the Interpretation and Application of House Bill 13-1224, Large-Capacity Magazine Ban

Dear Executive Director Davis:

House Bill 13-1224, which was passed during this year's legislative session and becomes effective July 1, 2013, prohibits the sale, transfer, and possession of "large-capacity ammunition magazines." On March 20, 2013, in a statement issued at the time he signed HB 13-1224 into law, Governor Hickenlooper instructed "the Colorado Department of Public Safety to consult with the Office of the Attorney General and others, as necessary . . . and then to draft and issue, to law enforcement agencies in the State of Colorado, technical guidance on how the law should be interpreted and enforced."

This letter sets forth the technical guidance requested by the Governor.

Introduction

This technical guidance, issued at the request of the Governor, is meant to assist Colorado law enforcement agencies in understanding and applying portions of House Bill 13-1224, which regulates the sale, transfer, and possession of "large capacity magazines." Although this guidance is not binding on the courts, it is based upon existing legal principles and represents a fair and accurate reading of the legislation.

Definition of "Large Capacity Magazine"

Under House Bill 1224, the term "large capacity magazine" is defined, in part, as follows: "a fixed or detachable magazine, box, drum, feed strip, or similar device capable of accepting, or that is designed to be readily converted to accept, more than fifteen rounds of ammunition."

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The phrase “designed to be readily converted to accept more than fifteen rounds of ammunition” has prompted questions regarding the scope of the definition, particularly because some ammunition magazines include features, such as removable baseplates, that can be removed and replaced, or otherwise altered, so that the magazine accepts more than fifteen rounds.

The term “designed,” when used as a modifier, denotes a feature that meets a specific function. This suggests that design features that fulfill more than one function, and whose function is not specifically to increase the capacity of a magazine, do not fall under the definition. The features of a magazine must be judged objectively to determine whether they were “designed to be readily converted to accept more than fifteen rounds.”

Under this reading of the definition, a magazine that accepts fifteen or fewer rounds is not a “large capacity magazine” simply because it includes a removable baseplate which may be replaced with one that allows the magazine to accept additional rounds. On many magazines, that design feature is included specifically to permit cleaning and maintenance. Of course, a magazine whose baseplate is replaced with one that does, in fact, allow the magazine to accept more than fifteen rounds would be a “large capacity magazine” under House Bill 1224.

“Possession” of Large-Capacity Magazines and Application of the Grandfather Clause of House Bill 1224

House Bill 1224 also places limitations on when and how a large-capacity magazine may be sold, transferred, or possessed. In particular, the bill’s grandfather clause permits possession of a large-capacity magazine on or after July 1, 2013 by an individual who “owns” such a magazine on that date and “maintains continuous possession” of it thereafter. However, the bill prohibits the owner of a large-capacity magazine from selling or transferring it after July 1, 2013, and also prohibits an individual who as of July 1 did not own and since then has not continuously possessed a particular large-capacity magazine to possess it after July 1, 2013.


Responsible maintenance, handling, and gun safety practices, as well as constitutional principles, dictate that these provisions cannot be reasonably construed as barring the temporary transfer of a large-capacity magazine by an individual who remains in the continual physical presence of the temporary transferee, unless that temporary transfer is otherwise prohibited by law. For example, an owner should not be considered to have “transferred” a large-capacity magazine or lost “continuous possession” of it simply by handing it to a gunsmith, hunting partner, or an acquaintance at a shooting range with the expectation that it will be promptly returned. Likewise, a gunsmith, hunting partner, or acquaintance at a shooting range who acquires temporary physical custody of a large-capacity magazine from its owner should not be considered in “possession” of the magazine

Page 3

so long as he or she remains in the owner's physical presence. However, it would be unreasonable to construe the bill or this guidance to exempt a temporary transfer of a large-capacity magazine in connection with criminal activity.

For similar reasons, the bill's requirement that an owner must maintain "continuous possession" in order to ensure the application of the grandfather clause cannot reasonably be read to require continuous physical possession. Proper storage of a large-capacity magazine, such as in a gun safe in the owner's home or in a secure carrying case in the trunk of an automobile, is entirely consistent with the bill's intent of limiting the acquisition and permanent transfer of large-capacity magazines after the effective date of July 1, 2013.

Sincerely,


JOHN W. SUTHERS
Colorado Attorney General

cc: Governor John Hickenlooper
Jack Finlaw, Chief Legal Counsel to Governor Hickenlooper

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Telescoping magazine

US 4472900 A

ABSTRACT

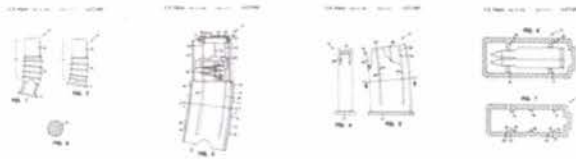
A telescoping magazine for holding and feeding cartridges to a firearm. The magazine has a fixed portion which itself comprises a firearm-engaging section and a skirt. The firearm-engaging section and the skirt are each provided with a plurality of ribs for holding two parallel offset rows of cartridges. A slide slides within the skirt and comprises slots adapted to receive ribs of the skirt. The magazine also has a follower biased by a spring.

Publication number	US4472900 A
Publication type	Grant
Application number	06/452,400
Publication date	Sep 25, 1984
Filing date	Dec 22, 1982
Priority date	Dec 22, 1982
Inventors	William J. Howard
Original Assignee	Howard; William J.

Patent Citations (10), Referenced by (19), Classifications (8)

External Links: USPTO, USPTO Assignment, Espacenet

IMAGES (4)



DESCRIPTION

Referring now to the drawings in general and in particular to FIG. 1, there is shown a telescoping magazine 10 comprising a fixed portion 12 and a slide 14. The fixed portion 12 comprises a firearm-engaging section 16 attached to a skirt 18.

Referring now to FIG. 3, there is shown a cutaway view of the fixed portion 12 comprising its firearm-engaging section 16 and its skirt 18. Within the fixed portion 12 is shown a single representative cartridge 20. The cartridge 20 comprises a projectile 21 crimped into a neck 22. The neck 22 is connected to a shoulder 23 which, in turn, is connected to the body 24. The body 24 terminates in a base 25 having an extractor recess 26 and a rim 27. The cartridges, such as the representative cartridge 20, are stacked in the magazine in two parallel offset rows (see FIG. 6. See FIG. 4 of Ardolino.). The two rows are parallel to each other because the planes defined by the center lines of the respective cartridges are parallel. The two rows are offset because the cartridges in one row seek to rest in the space between adjacent cartridges of the adjacent row.

The firearm-engaging section 16 is provided with three pairs of ribs, only one rib of each pair being visible in FIG. 3. The rear pair of ribs, of which the rib 30 is one, contacts the adjacent row of cartridges on the body 24 of the cartridge 20 near its base 25. The intermediate pair of ribs, such as the rib 32, contacts the adjacent row of cartridges, such as the cartridge 20, on the body 24 of the cartridge 20 midway between the base 25 and the neck 22. The front pair of ribs, such as the

CLAIMS

I claim:

1. A telescoping magazine for holding and feeding cartridges to a firearm; said magazine comprising:
 2. The magazine of claim 1 wherein the skirt is equipped with a pair of front ribs and a pair of rear ribs;
 3. The magazine of claim 1 wherein the slide is equipped with a tongue terminating in a lug adapted to fit into a lower hole in the skirt thus preventing the spring from forcing the slide from the skirt.
 4. The magazine of claim 1 wherein the slide is equipped with a tongue terminating in a lug adapted to fit into an upper hole in the skirt in order to provide maximum compression of the spring.
 5. The magazine of claim 1 having a length sufficient to hold thirty cartridges with the slide pushed in.
 6. The magazine of claim 1 having a length sufficient to hold forty-five cartridges with the slide extended.
 7. The magazine of claim 1 wherein the spring is a coil spring wherein the coil is rectangular in form.
 8. The magazine of claim 1 wherein the spring is made of wire having a

rib 34, contacts the adjacent row of cartridges, such as the cartridge 20, on the neck 22 of each cartridge.

The firearm-engaging section 16 of the fixed portion 12 of the magazine 10 is fixedly attached to a skirt 18. The skirt 18 has a rear pair of ribs, such as the rib 36, the rib 36 is substantially colinear with the rib 30. The pair of ribs 36,37 (see FIG. 6) contact the parallel offset row of cartridges on the body of each cartridge in the adjacent row in a manner similar to the function performed by the rib 30.

The skirt 18 is also equipped with a front pair of ribs 38,39 (see FIG. 6). The front pair of ribs 38,39 contact the parallel offset row of cartridges on the neck of each cartridge in the adjacent row in a manner similar to the ribs, such as the rib 34.

The rib 38 is substantially colinear with the rib 34. The front wall 40 and the rear wall 42 are curved, such that adjacent cartridges are in contact with one another throughout the length of their bodies. The skirt 18 is provided with an upper lug-receiving hole 44 and a lower lug-receiving hole 46, the purpose and function of which is more completely described below. The lug-receiving hole 46 is near the lower extremity 48 of the skirt 18. The external surface of the skirt 18 is equipped with a plurality of circumferential bands, such as the bands 50,51,52,53. The bands 50,51,52,53 provide reinforcement for the skirt 18 and also provide a slip-resistant hand grip.

Referring now to FIGS. 4 and 5, there is shown the slide 14 useful in the magazine 10 of the present invention. The slide 14 is provided with a pair of rear slots, such as the slot 56, defined by parallel juxtaposed walls 58,60. The slot 56 has a width slightly greater than the rib 37 (see FIG. 6) and is adapted to slidably receive the rib 37.

The slide 14 is also equipped with a pair of front slots, such as the slot 62. The slot 62 is defined by the walls 64,66. The width of the slot 62 is slightly larger than the width of the rib 39 (see FIG. 6) and is adapted to slidably receive the rib 39.

The slide 14 is also equipped with a tongue 68 terminating in a lug 70. The lug 70 is adapted to fit into the lug-receiving holes 44,46 in the skirt 18 (see FIG. 3). The tongue 68 is outwardly biased to cause the lug 70 to engage either the hole 46 or the hole 44. When the lug 70 is engaged in the hole 46, the spring 84 is prevented from forcing the slide 14 from the skirt 18. Maximum compression of the spring 84 is provided by engaging the lug 70 in the hole 44. The slide 14 is also fitted with a spring-resisting bottom 72.

Referring now to FIG. 7, it can be seen that the slide 14 is equipped with a rear pair of ribs 74,76. The distance between the ribs 74,76 is equal to the distance between the ribs 36,37 of the skirt 18 (see FIG. 6). The slide 14 is also equipped with a front pair of ribs 78,80. The rib 80 is adjacent to the front slot 62. The distance between the ribs 78,80 is substantially equal to the distance between the ribs 38,39 (see FIG. 6).

Additionally, the slide 14 is equipped with an intermediate pair of ribs 86,88. This intermediate pair of ribs 86,88 contacts the adjacent row of cartridges, such as cartridge 20, on the body 24 of the cartridge 20 midway between the base 25 and the neck 22.

A rectangular coil spring (not shown in any of FIGS. 4, 5, 6, or 7) rests on the bottom 72 of the slide 14 and extends within the slide 14 between the ribs 74,76 and between the ribs 78,80 and is connected on its lower end to a follower 82 (see FIG. 3). Preferred structure for the follower is shown in Howard et al, U.S. Pat. No. 4,139,959. The structure of the follower there shown is ideally suited for the follower 82 of the present invention. The follower 82 is urged toward the cartridge 20 by the spring 84. The follower 82 is adapted to receive upward pressure from below caused by the spring 84. The spring 84 rests on the bottom 72 of the slide 14 and biases the follower 82 toward the cartridge 20 and the firearm (not shown). In the magazine 10 of the present invention, the spring 84 is prevented from snaking by contact of the spring 84 with the ribs 30, 32, 34, 36, 37, 38, 39, 74, 76, 78 and 80.

The telescoping magazine 10 of the present invention can be constructed of metal, plastic, or other material, but is preferably constructed of plastic. A wide variety of plastics can be employed if they have the proper physical properties of strength, resilience, and toughness. Plastics such as polyesters, polyamides and polyolefins are potential candidates. The preferred material is a fiber-filled nylon sold by the Dupont Chemical Company under the tradename ZYTEL. In a preferred embodiment of the present invention, the fixed portion 12 comprising the firearm engaging portion 16 and the skirt 18 are formed from a

circular cross-section.

9. The magazine of claim 1 wherein the spring contacts the ribs of the skirt and is prevented from snaking by contact therewith.

10. The magazine of claim 1 wherein the external surface of the skirt is equipped with a plurality of circumferential bands which provide reinforcement for the skirt and also provide a slip-resistant hand grip.

11. The magazine of claim 1 wherein the skirt and slide are curved such that adjacent cartridges are in contact with one another throughout the length of their bases.

12. The magazine of claim 1 wherein the fixed portion, the slide and the follower are all constructed of thermoplastic.

13. The magazine of claim 1 wherein the fixed portion comprising the firearm engaging portion and the skirt are formed from a single, injection-molded piece of thermoplastic.

14. A telescoping magazine for holding and for serially feeding forty-five cartridges to a firearm

single, injection-molded piece of thermoplastic.

To assemble the telescoping magazine 10 of the present invention, the spring 84 is attached to the follower 82 whereupon the spring 84 and the follower 82 are placed within the fixed portion 12 of the magazine 10 as shown in FIG. 3. The slide 14 is inserted into the bottom of the skirt 18 until the lug 70 catches on the hole 46 whereupon the magazine 10 has the appearance shown in FIG. 1. To disassemble the magazine 10, the lug 70 is forced from the hole 46 whereupon pressure exerted by the spring 84 on the bottom 72 of the slide 14 causes the slide 14 to be pushed from the skirt 18.

Magazine 10 of the present invention is loaded in a conventional manner by serially forcing cartridges, such as the cartridge 20, into the top of the firearm-engaging section 16. The first cartridge contacts the follower 82 whereupon subsequent cartridges align themselves in two parallel offset rows as is well known in the art. The telescoping magazine 10 of the present invention can be loaded with as many as thirty cartridges and stored for indefinite periods of time without weakening the spring 84 as long as the slide 14 is extended as shown in FIG. 1. When the magazine 10 contains less than about thirty cartridges, the slide 14 can be pushed fully in as shown in FIG. 2. In this configuration, the lug 70 seats itself in the hole 44 maintaining compression on the spring 84. The telescoping magazine 10 of the present invention can be employed in the configuration shown in FIG. 2 if the marksman is carrying the firearm in confined locations, if the spring 84 is weak or for any other reason. On the other hand, the magazine 10 of the present invention, with the slide 14 extended as shown in FIG. 1, can hold as many as forty-five cartridges and will feed them rapidly and reliably to the firearm.

Although the invention has been described in considerable detail with reference to a preferred embodiment thereof, it will be apparent to those skilled in the art that the present invention can be modified without departing from the spirit and scope of the invention as described above and as defined in the appended claims.

Additional objects and advantages of the present invention will be apparent to those of ordinary skill in the art by reference to the following detailed description and drawings wherein:

FIG. 1 is a side view of a telescoping magazine of the present invention with its slide extended; and

FIG. 2 is a side view of a telescoping magazine of the present invention with its slide in the uppermost position; and

FIG. 3 is a sectional view of the fixed portion of a telescoping magazine of the present invention; and

FIG. 4 is an end view of a slide to be used with the telescoping magazine of the present invention; and

FIG. 5 is a side view of the slide of FIG. 4; and

FIG. 6 is an enlarged sectional view taken along Line 6--6 of FIG. 3; and

FIG. 7 is a sectional view taken along Line 7-7 of FIG. 5; and

FIG. 8 is a sectional view of the spring useful in the present invention which sectional view is taken along Line 8--8 of FIG. 3.

Telescoping magazines for holding and feeding cartridges to a firearm are well known. The telescoping magazines generally comprise a container for two parallel offset rows of cartridges. The lowermost cartridge rests on a follower which is urged toward the firearm by a spring. Many attempts have been made to provide magazines that can be stored loaded with cartridges. See, for example, Ardolino, U.S. Pat. No. 3,443,334. However, such prior attempts suffer from a number of disadvantages. One disadvantage is that the spring weakens in storage. This weakening of the spring causes subsequent unreliable feeding of the cartridges from the magazine to the firearm. To overcome this disadvantage, modification in the structure and form of springs has been suggested. See Musgrave, U.S. Pat. No. 3,964,199. However, the springs of Musgrave are expensive and ineffective. They are ineffective because it requires as much as fifteen pounds of pressure to compress the spring. It is difficult or impossible to apply this pressure with the human hand alone.

Another problem in prior telescoping magazines is the tendency of the spring to depart from a straight line. This departure from a straight line is sometimes referred to as "snaking". Snaking of the spring causes uneven pressure on the cartridges and results in unreliable feeding of the cartridges from the magazine to the firearm.

Another problem is that prior magazines in general contain only twenty or at most twenty-five cartridges.

Accordingly, it is an object of the present invention to provide an improved telescoping magazine substantially free of one or more of the disadvantages of prior telescoping magazines.

Another object is to provide a telescoping magazine wherein the spring does not weaken on storage even when the magazine

is stored with cartridges loaded in the magazine.

Another object is to provide a telescoping magazine which can employ an inexpensive coil spring.

Still another object of the present invention is to provide an improved telescoping magazine which requires far less than fifteen pounds of pressure to load cartridges into the magazine.

Still another object of the present invention is to provide an improved telescoping magazine free of spring snaking.

Still another object of the present invention is to provide an improved telescoping magazine capable of holding and reliably feeding forty-five cartridges.

PATENT CITATIONS

Cited Patent	Filing date	Publication date	Applicant	Title
US1044983 *	Feb 20, 1912	Nov 19, 1912	Milton W. H. Brown	Box-magazine for firearms.
US3440751 *	Jun 30, 1967	Apr 29, 1969	Colt'S Inc.	Firearm box magazine with straight end and intermediate arcuate portions
US3443334 *	Aug 28, 1967	May 13, 1969	Edward J. Ardolino	Cartridge magazine with a spring whose force against the cartridge may be selectively increased
US3453762 *	Jun 19, 1967	Jul 8, 1969	Colt'S Inc.	Disposable magazine having a protective cover and follower retaining means
US3603020 *	Mar 27, 1970	Sep 7, 1971	Army Usa	Magazine assembly with expendable cartridge container unit
US3619929 *	Mar 13, 1969	Nov 16, 1971	Colt'S Inc.	Magazine with anti-double-feed indentations in the side walls
US3726038 *	Oct 12, 1971	Apr 10, 1973	D Us Bredbury	Rectilinear magazine
US3964199 *	Jun 2, 1975	Jun 22, 1976	Musgrave; Daniel D.	Adjustable spring assembly
US4139959 *	May 13, 1977	Feb 20, 1979	Harvey; William A.	Cartridge magazine
DE747658C *	Feb 8, 1942	Oct 9, 1944		Patronenmagazin fuer Schusswaffen, bestehend aus zwei teleskopisch ineinander verschiebbaren Gehaeusetteilen

* Cited by examiner

REFERENCED BY

Citing Patent	Filing date	Publication date	Applicant	Title
US4777752 *	Jun 9, 1987	Oct 18, 1988	Howard; William J.	Blank magazine
US4831761 *	Jun 9, 1988	May 23, 1989	Kulakow; Eric M.	Gun magazine and spring assembly
US4888900 *	Mar 9, 1988	Dec 26, 1989	Howard; William J.	Magazine
US4901463 *	Oct 29, 1987	Feb 20, 1990	Chesnut; M. Gaines	Cartridge magazine having a single piece magazine head
US5113605 *	Jul 13, 1990	May 19, 1992	Dae Sam Co., Ltd.	Length-variable magazine
US5149897 *	Dec 6, 1991	Sep 22, 1992	Howard; William J.	See-through magazine
US7497044 *	Jan 11, 2006	Mar 3, 2009	Cammenga Corporation	Firearm magazine
US7533483 *	Jun 21, 2005	May 19, 2009	The United States Of America As Represented By The Secretary Of The Army	Composite magazine for chambering ammunition in a firearm
US7621063 *	Feb 9, 2006	Nov 24, 2009	Magpul Industries Corp.	Self-leveling follower for ammunition magazine
US7806293 *	Jun 30, 2009	Oct 5, 2010	Altieri Daniel P	Shotgun shell storing and dispensing device
US8225541 *	Jan 12, 2010	Jul 24, 2012	Okay Industries, Inc.	Magazine for a firearm
US20110167694 *	Jan 12, 2010	Jul 14, 2011	Okay Industries, Inc.	Magazine for a firearm
DE19706778A1 *	Feb 20, 1997	Nov 6, 1997	Arthur North Miami Beach Fla. Us Vanmoor	Magazine for firearm
DE19706778C2 *	Feb 20, 1997	Aug 29, 2002	Arthur Vanmoor	Magazinanordnung für Schußwaffen
EP0253230A2 *	Jul 3, 1987	Jan 20, 1988	William J. Howard	Magazine charger

EP0937666A1	Feb 15, 1999	Aug 25, 1999	G.D Societa' Per Azioni	Transmission for product transfer unit
WO1988010404A1 *	Jun 24, 1988	Dec 29, 1988	Anthony Charles Blackshaw	Magazine assembly for firearm
WO1992012393A1 *	Jan 9, 1991	Jul 23, 1992	Robert D. Switzer	Cartridge clip
WO2007081354A2 *	Feb 17, 2006	Jul 19, 2007	Robert M. Austin	Firearm magazine

* Cited by examiner

CLASSIFICATIONS

U.S. Classification	42/50
International Classification	F41A9/00, F41A9/69, F41A9/65
Cooperative Classification	F41A9/69, F41A9/65
European Classification	F41A9/69, F41A9/65

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City Attorney Dennis Herrera News Release

For Immediate Release:
June 10, 2013
Contact: Matt Dorsey
(415) 554-4662

Herrera sues over high-capacity ammo gun ‘repair kits’ intended to skirt California law

Three gun accessories companies, gun show promoter named in suit for attempting ‘clever end-run’ by selling disassembled but fully functional high-capacity magazines

SAN FRANCISCO (June 10, 2013)—City Attorney Dennis Herrera today filed suit against three gun accessories companies and a gun show promoter for selling disassembled high-capacity magazines in California in violation of a state law that prohibits the sale, manufacture, or import of gun ammunition feeding devices that accept more than 10 rounds. Ostensibly marketed as gun magazine “repair kits” in a barely-disguised attempt to skirt a 14-year-old California gun safety law, the disassembled equipment is intended for easy reassembly by purchasers into complete, fully functional high-capacity magazines that dramatically enhance the lethality of otherwise lawful firearms.

High-capacity magazines, which are designed to allow shooters to fire multiple rounds without stopping to reload, are a favored gun accessory among mass murderers who have relied on the devices’ destructive firepower to perpetrate such high-profile massacres as those at Virginia Tech University in 2007, which resulted in 32 deaths; at an Aurora, Colo. movie theater in 2012, which killed 12 people; and at a Newtown, Conn. elementary school last December, which claimed the lives of 20 children and six adult staff members. Herrera’s civil complaint filed in San Francisco Superior Court this morning alleges that three online gun equipment distributors and one prominent gun show organizer knowingly aid and abet illegal conduct in the state by marketing “California only” disassembled magazine parts, which at least one defendant wrongly represents as “100% legal.”

“The gun businesses we’ve sued today think they’ve devised a clever end-run around California law by selling fully functional high-capacity magazines that have simply been disassembled into a few easily-reassembled parts,” said Herrera. “Our litigation intends to prove otherwise. California lawmakers enacted smart gun safety precautions to prohibit devices that serve no sporting

[MORE]

Exhibit D

City Attorney Dennis Herrera—Page 2

purpose, and are clearly inappropriate for non-military uses. Our common sense laws balance public safety imperatives with the constitutional rights of responsible gun owners, and they deserve to be aggressively enforced.”

The State of California enacted its prohibition on the sale, manufacture, or import of large-capacity magazines in 1999, declaring the devices to be public nuisances. Lawmakers at the time expressly grandfathered owners of large-capacity magazines possessed before the prohibition took effect on Jan. 1, 2000, allowing for the lawful repair and maintenance of magazines by licensed dealers and gunsmiths. According to Herrera’s complaint filed in San Francisco Superior Court this morning, the defendants’ marketing makes clear that their sales of disassembled but brand new magazine parts is an effort to evade California law, wrongly informing consumers in some cases that their products are “100% legal repair/rebuild kits.”

Online vendors named as defendants in Herrera’s civil action are: Harbor, Ore.-based 44Mag Distributing LLC, which operates www.44mag.com; Dallas, Texas-based Exile Machine, LLC, which operates www.exilemachine.com; and Pitsburg, Ohio-based Copes Distributing, Inc., which operates www.copesdistributing.com. Herrera also sued Kaysville, Utah-based B & L Productions, Inc., which hosts gun shows throughout California as “Crossroads of the West Gun Show,” including at the Cow Palace in Daly City, Calif., where large-capacity magazine “repair kits” are typically available for purchase.

Herrera’s lawsuit was investigated and filed by his office’s Consumer Protection Unit, which pursues civil actions under California’s Unfair Competition Law to protect consumers and law-abiding competing businesses from unlawful, unfair, and fraudulent business practices. The unit’s actions are funded by civil recoveries under the provisions of Proposition 64, which California voters enacted in 2004 to direct monetary penalties recovered by government prosecutors to the enforcement of consumer protection laws. If successful, Herrera’s action could result in a court-ordered injunction to immediately prohibit further unlawful conduct by the companies, together with civil penalties of up to \$2,500 for each act of unfair competition and legal costs.

The case is: *People of the State of California v. 44MAG Distributing LLC et al.*, San Francisco Superior Court, No. CGC-13-531982, filed June 10, 2013. A PDF copy of the complaint and accompanying exhibits is available on the S.F. City Attorney’s website at <http://www.sfcityattorney.org/>.

#

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**ENDORSED
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 San Francisco County Superior Court

JUN 10 2013

CLERK OF THE COURT

By: KEITH D. TOM
 Deputy Clerk

8 Attorneys for Plaintiff
 9 THE PEOPLE OF THE STATE OF CALIFORNIA
 Ex rel. San Francisco City Attorney Dennis J. Herrera

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 12 COUNTY OF SAN FRANCISCO
 13 UNLIMITED JURISDICTION

14 THE PEOPLE OF THE STATE OF
 15 CALIFORNIA, ex rel. San Francisco City
 Attorney Dennis J. Herrera,

16 Plaintiff,

17 vs.

18 44MAG DISTRIBUTING LLC d/b/a
 19 44MAG.COM, an Oregon limited liability
 company; EXILE MACHINE, LLC, d/b/a
 20 EXILEMACHINE.COM, a Texas limited
 liability company; COPEs DISTRIBUTING,
 21 INC., an Ohio corporation; and B & L
 PRODUCTIONS, INC., a Utah corporation,
 22 d/b/a CROSSROADS OF THE WEST GUN
 SHOWS, and DOES 1 through 50, inclusive.

23 Defendants.

Case No. **CGC-13-531982**

**COMPLAINT FOR INJUNCTIVE RELIEF
 AND CIVIL PENALTIES FOR VIOLATIONS
 OF BUSINESS AND PROFESSIONS CODE
 SECTIONS 17200 AND 17500**

1 Plaintiff, the People of the State of California, acting by and through San Francisco City
2 Attorney Dennis Herrera, is informed and believes and alleges as follows:

3 **INTRODUCTION**

4 1. In California, it is unlawful to sell, manufacture, or import a magazine that accepts
5 more than 10 rounds of ammunition. And for good reason. These devices, known as large-capacity
6 magazines, multiply the destructive power of firearms by allowing a shooter to fire many rounds
7 without stopping to reload. They have been used in many recent, high-profile mass shootings, such as
8 the 2007 Virginia Tech shooting, which killed 32 people; the 2012 Aurora, Colorado shooting, which
9 killed 12 people; and the 2012 Newtown, Connecticut shooting, where 20 children were killed
10 alongside several of their teachers. Indeed, a researcher investigating the 1994 federal ban on large-
11 capacity magazines and assault weapons determined that attacks with semiautomatics equipped with
12 large-capacity magazines resulted in more shots fired, more persons hit, and more wounds inflicted per
13 victim than attacks with other firearms.

14 2. Because these devices are so lethal, the State of California enacted its prohibition on the
15 sale, manufacture, or import of large-capacity magazines in 1999, and indeed it declared them to be
16 public nuisances. In an effort to balance the state's public safety needs against the interests of gun
17 owners, however, California did not prohibit the continued possession of large-capacity magazines by
18 people who owned them before the sale/manufacture/import prohibition took effect on January 1,
19 2000. California also made express provision for these grandfathered owners of pre-ban large-
20 capacity magazines to repair their magazines by taking them to licensed dealers and gunsmiths for
21 upkeep and repair. But these grandfathered owners, and all other residents of the state who are not law
22 enforcement officers or otherwise exempt, are not permitted to acquire new large-capacity magazines.

23 3. Each of the Defendants in this case has flouted California's public safety mandate for
24 its own profit. Defendants 44Mag, Exile Machine, and Copes ("Online Defendants") all ship brand-
25 new large-capacity magazines to customers throughout California in the guise of "repair kits." These
26 "repair kits" are not individual magazine parts to replace, say, a worn-out spring or a cracked baseplate
27 in a lawfully possessed magazine. Instead they are *disassembled large-capacity magazines* that are
28 readily reassembled by purchasers into brand-new, fully functional large-capacity magazines. The

1 Online Defendants are or should be fully aware that assembling new large-capacity magazines is
2 precisely the purpose for which all or the overwhelming majority of their customers purchase them.
3 And that is precisely how the Online Defendants market them: as new magazines that can readily be
4 assembled. The fact that the Online Defendants intend for Californians to use their products not to
5 repair lawfully owned magazines but instead to assemble new magazines is apparent from the fact that
6 the Online Defendants target sales of these “repair kits” only to residents of states that restrict or ban
7 large-capacity magazines, including specifically California. The Online Defendants do not promote
8 the sale of these “repair kits” to residents of states that do not restrict the capacity of firearms
9 magazines—demonstrating that their true purpose is not to sell repair kits but to subvert and
10 circumvent California law. By their unlawful and unfair conduct, they profit at the expense of public
11 safety in California.

12 4. Defendant Crossroads of the West operates gun shows in California—including at the
13 Cow Palace, which is in San Francisco’s backyard. At these gun shows, with the knowledge,
14 authorization, and encouragement of Crossroads of the West, retailers import into California and sell
15 disassembled large-capacity magazines, also on the pretense that they are “repair kits.” Crossroads of
16 the West, too, knowingly profits from this unlawful arms trade.

17 5. These are unlawful and/or unfair and fraudulent business practices that compromise
18 California’s public safety objectives, make a mockery of the State’s laws, and knowingly or
19 intentionally aid and abet the unlawful purchase, importation and/or manufacture of large-capacity
20 magazines by California residents. This Court should enter an injunction to stop these practices and
21 should order the Defendants to pay civil penalties for their past acts of unfair competition.

22 PARTIES

23 6. Plaintiff the People of the State of California, by and through San Francisco City
24 Attorney Dennis J. Herrera (“People”), prosecutes this action pursuant to Business and Professions
25 Code §§ 17200 and 17500.

26 7. Defendant 44Mag Distributing LLC, d/b/a 44mag.com (“44Mag”), is an Oregon
27 limited-liability company with its principal offices at 18709 Ranch Road in Harbor, Oregon. 44Mag
28 operates a website that sells wholesale rifle and pistol magazines over the internet and is doing

1 business in California. In particular, 44Mag targets California customers to sell them large-capacity
2 magazine “repair kits.” See Exhibit A hereto (44Mag.com webpage,
3 http://www.44mag.com/product/california_large_capacity_magazine_repair_parts_kits/s, last visited
4 June 7, 2013), which is incorporated herein by reference. 44Mag’s internet site advertising these
5 wares is accessible in San Francisco, and 44Mag has sold or intends to sell its “repair kits” to San
6 Francisco consumers.

7 8. Defendant Exile Machine, LLC, d/b/a exilemachine.com (“Exile Machine”) is a Texas
8 limited-liability company with its principal offices in Dallas, Texas. Exile Machine operates a website
9 which sells firearms accessories and is doing business in California. In particular, Exile Machine
10 targets California customers to sell them large-capacity magazine “repair kits,” and also offers, for a
11 fee, to disassemble and ship to California residents as repair/rebuild kits those large-capacity
12 magazines that California customers have purchased from another source which refuses to disassemble
13 the magazine or ship it to California. See Exhibits B-1 (Exile Machine webpage,
14 <https://www.exilemachine.net/shop/pages/we-ship-to-ca-9.html>, last visited June 7, 2013) and B-2
15 (Exile Machine webpage, [https://www.exilemachine.net/shop/ca-magazine-disassembly-service-
16 508.html](https://www.exilemachine.net/shop/ca-magazine-disassembly-service-508.html), last visited June 7, 2013) hereto, which are incorporated herein by reference. Exile
17 Machine’s internet site advertising these wares is accessible in San Francisco, and Exile Machine has
18 sold or intends to sell its “repair kits” and its magazine disassembly service to San Francisco
19 consumers.

20 9. Defendant Copes Distributing, Inc. (“Copes”) is an Ohio corporation with its principal
21 offices in Pittsburg, Ohio. Copes operates a website which sells firearms and firearms-related products
22 and is doing business in California. In particular, Copes targets California customers to sell them
23 large-capacity magazine “repair kits.” See Exhibit C hereto (Copes webpage at:
24 <http://www.copesdistributing.com/bcalifornia-magazine-repair-p-2488.html>, last visited June 7, 2013),
25 which is incorporated herein by reference. Copes’ internet site advertising these wares is accessible in
26 San Francisco, and Copes has sold or intends to sell its “repair kits” to San Francisco consumers.

27 10. Defendant B & L Productions, Inc. is a Utah corporation, doing business as Crossroads
28 of the West Gun Show (“Crossroads”), with its principal place of business in Kaysville, Utah.

1 Crossroads hosts gun shows regularly in California and is doing business in California. Upon
2 information and belief, San Francisco consumers have purchased large-capacity magazine “repair kits”
3 from vendors at Crossroads gun shows, particularly those occurring at the Cow Palace in Daly City,
4 and large-capacity magazine “repair kits” purchased from Crossroads gun shows are readily
5 transported into San Francisco.

6 11. Plaintiff the People is not aware of the true names and capacities of Defendants sued
7 herein as DOES 1 through 50, inclusive, and therefore sues these Defendants by such fictitious names.
8 Each fictitiously named Defendant is responsible in some manner for the violations of law alleged.
9 The People will seek leave of court to amend this complaint to allege their true names and capacities
10 when that information is ascertained. Whenever reference is made in this Complaint to “Defendants”
11 or “Online Defendants,” such reference shall include DOES 1 through 50 as well as the named
12 Defendants.

13 **JURISDICTION AND VENUE**

14 12. The Superior Court has jurisdiction over this action. The Online Defendants and
15 Crossroads are conducting unfair and/or unlawful and fraudulent business practices in California, and
16 the City Attorney has the right and authority to prosecute these cases on behalf of the People.

17 13. Venue is proper in this Court because some of the injuries of which the People
18 complain have occurred in San Francisco and because injunctive relief is necessary to stop all of the
19 Defendants, and each of them, from delivering large-capacity magazines to San Francisco or
20 marketing and selling them to San Francisco residents.

21 **UNFAIR AND/OR UNLAWFUL AND FRAUDULENT BUSINESS PRACTICES**

22 14. With few exceptions, California Penal Code §§ 32310 *et seq.* prohibits any person in
23 California, after January 1, 2000, from manufacturing, importing, selling, giving, or lending any large-
24 capacity magazine. The prohibition on importing large-capacity magazines has no exception for
25 importing additional large-capacity magazines to cannibalize for parts.

26 15. Notwithstanding this prohibition, 44Mag, Exile Machine, and Copes ship disassembled
27 large-capacity magazines to California consumers who order them, including to San Francisco
28 consumers, under the guise that these disassembled magazines are “repair kits.” This is a fig leaf.

1 There is no exception in the Penal Code which allows the importation of large-capacity magazines in
2 disassembled form by people who owned large-capacity magazines before they were prohibited on
3 January 1, 2000. And even if there were such an exception, these Online Defendants know or should
4 know that at least some of their customers do not own grandfathered large-capacity magazines, and are
5 instead merely unlawfully importing the magazines they purchase from the Online Defendants. The
6 Online Defendants are therefore aiding and abetting violations of California penal law, and making a
7 mockery of this law solely for their own profits.

8 16. The fact that the Online Defendants know that they are aiding and abetting, and intend
9 to aid and abet, illegal conduct by the California purchasers of their large-capacity magazine “repair
10 kits” is apparent from the facts that their “repair kits” do not include only the parts that a grandfathered
11 magazine owner needs to make any particular repair, and that the kits are not limited to the parts of a
12 magazine that need repair most frequently such as the spring. Instead, the Online Defendants’ “repair
13 kits” contain an entire magazine, disassembled into three or four separate parts. Indeed, many of the
14 Online Defendants are careful to assure their California customers that when they order a “repair kit,”
15 they are actually receiving an entire magazine. For instance, 44Mag states that the kit “includes all the
16 parts of a magazine.” See Exhibit A hereto, which is incorporated herein by reference. Exile Machine
17 tells California customers that if they “purchase magazines which hold more than 10 rounds, [Exile
18 Machine] will automatically disassemble them into 100% legal repair/rebuild kits.” See Exhibit B-1
19 hereto, which is incorporated herein by reference. Copes advertises that for “California only,” “High
20 capacity Rifle and Pistol magazines can be disassembled into rebuild kits for shipment,” and charges a
21 \$1.00 “disassembly fee” for each large-capacity magazine that a California customer orders. See
22 Exhibit C hereto, which is incorporated herein by reference.

23 17. The fact that the Online Defendants know they are aiding and abetting, and intend to
24 aid and abet, illegal conduct by the California purchasers of their large-capacity magazine “repair kits”
25 is also apparent from the fact that the Online Defendants offer the “repair kits” only to residents of
26 states that restrict or ban large-capacity magazines. Indeed, they discourage the purchase of the
27 “repair kits” by residents of states that do not restrict the capacity of firearms magazines. For instance,
28 44Mag has a “frequently asked questions” page that states, “[Q.] I live in a state that doesn’t have

1 magazine restrictions can I order a repair parts kit? [A.] No, you can order the complete magazine so
2 it would be silly to pay the extra fee for the exact same parts just in unassembled form.” See Exhibit
3 A hereto, which is incorporated herein by reference. In other words, it is “silly” to repair a large-
4 capacity magazine by purchasing another complete but disassembled magazine; the only sensible
5 purpose for the Online Defendants’ “repair kits” is to assemble them into prohibited ammunition
6 devices. And that is precisely what the Online Defendants flagrantly encourage and assist California
7 residents to do.

8 18. The fact that the Online Defendants know that they are aiding and abetting, and intend
9 to aid and abet, illegal conduct by the California purchasers of their large-capacity magazine “repair
10 kits” is apparent from the fact that the Online Defendants are aware that many other sellers of large-
11 capacity magazines refuse to ship them in disassembled form to California residents. For example, in
12 addition to selling large-capacity magazine repair/rebuild kits to California residents, Exile Machine
13 also offers a “CA Magazine Disassembly” service “For California Customers Only,” whereby, for a
14 charge of \$5.56, Exile Machine will disassemble and ship to California a magazine with capacity
15 greater than 10 rounds that a California resident has purchased from another source which refuses to
16 disassemble and ship the magazine to California. That Exile Machine does not expect the California
17 purchasers of these disassembled magazines to use them for repair is also demonstrated by its
18 requirement of a minimum order of 10 such magazine disassemblies – indicating that Exile Machine
19 expects and encourages California residents to make bulk purchases of large-capacity magazines, not
20 simply a single set of parts for use in repairing an existing lawfully owned pre-ban large capacity
21 magazine. See Exhibit B-2 hereto, which is incorporated herein by reference.

22 19. The fact that the Online Defendants know that they are aiding and abetting, and intend
23 to aid and abet, illegal conduct by the California purchasers of their large capacity magazine “repair
24 kits” is also apparent from the fact that it is not necessary for a California resident who lawfully owns
25 a pre-ban large-capacity magazine to purchase an entire, new large-capacity magazine in order to
26 repair the device. Section 32425 of the Penal Code expressly provides that the prohibition against
27 transfer of a large-capacity magazine does not apply to the transfer of the device to a gunsmith for
28 maintenance, repair, or modification.

1 20. None of the Online Defendants conditions its sale of “repair kits” to California
2 customers on a customer’s assurance that he or she actually owns a lawful, grandfathered large-
3 capacity magazine, or is a person who is otherwise entitled to own large-capacity magazines under the
4 Penal Code. And some of the Online Defendants make their illicit intentions even more plain. Exile
5 Machine has a webpage that states: “**California customers:** If you purchase magazines which hold
6 more than 10 rounds, we will automatically disassemble them into 100% legal repair/rebuild kits for
7 compliance with CA law.” See Exhibit B-1 hereto, which is incorporated herein by reference.

8 21. By offering large-capacity magazine “repair kits” for sale on their websites, each of the
9 Online Defendants also falsely represents that California consumers may lawfully purchase
10 disassembled large-capacity magazines as “repair kits.” Some of the Online Defendants are even more
11 explicit in representing that disassembled magazines may be imported into California. For instance,
12 Exile Machine advertises that its “repair kits” are “100% legal” under California law. See Exhibit B-1
13 hereto, which is incorporated herein by reference. These Online Defendants are therefore
14 misrepresenting the law to Californians, and openly and flagrantly assisting them in circumventing the
15 law.

16 22. Crossroads holds gun shows at venues throughout California, including several shows
17 each year at the Cow Palace in Daly City, at which many of its customers are California residents.
18 Crossroads has the right and ability to control the wares sold and displayed at its gun shows, as
19 evidenced by its decision to ration ammunition sales at some of its shows to prevent vendors from
20 running out of ammunition. Crossroads allows vendors at its California gun shows to import, display
21 for sale, and sell disassembled large-capacity magazines, and allows California residents to purchase
22 disassembled large-capacity magazines as “repair kits” without even offering an assurance, much less
23 proof, that the purchaser lawfully possesses a large-capacity magazine to repair. Crossroads knows or
24 should know that the true purpose of many of these sales is for Californians to unlawfully acquire
25 large-capacity magazines. It nonetheless flagrantly facilitates this illegal conduct, in service of its own
26 profits. These practices are aiding and abetting sales of large-capacity magazines in California in
27 violation of the Penal Code, and they are unfair and/or unlawful business practices.

28

**CAUSE OF ACTION FOR
VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200
AGAINST ALL DEFENDANTS**

23. The People incorporate by reference paragraphs 1 through 22 inclusive.

24. California Business and Professions Code section 17200 prohibits any "unlawful, unfair or fraudulent business act or practices." Each of the Defendants has engaged in unlawful, unfair and/or fraudulent business acts and practices in violation of section 17200 as follows:

a. Each of the On-Line Defendants has, with knowledge or constructive knowledge, aided and abetted violations of California’s laws concerning large-capacity magazines by selling disassembled large-capacity magazines to California consumers.

b. Crossroads has, with knowledge or constructive knowledge, aided and abetted violations of California’s laws concerning large-capacity magazines by allowing vendors at its California gun shows to import, display for sale, and to sell disassembled large-capacity magazines, and by allowing California residents at its California gun shows to purchase disassembled large-capacity magazines as “repair kits.”

c. The Online Defendants have engaged in fraudulent business practices by overtly or impliedly advertising that California consumers’ purchases of disassembled large-capacity magazines are lawful. Crossroads has engaged in fraudulent business practices by permitting vendors at its California gun shows to offer disassembled large-capacity magazines for sale as purportedly legal “repair kits.” These advertisements and business practices are likely to deceive reasonable California consumers about the legality of purchasing such magazines.

d.. The Defendants’ business practices, as described in this Complaint, constitute unfair business practices because they offend established public policy, and because the harm they cause to consumers and to public safety in California greatly outweighs any benefits associated with those practices.

PRAYER FOR RELIEF

The People pray for judgment against the Defendants, and each of them, as follows:

1 1. An order by which the Court enjoins each of the Defendants from performing or
2 proposing to perform or aiding and abetting any acts of unfair competition in California;

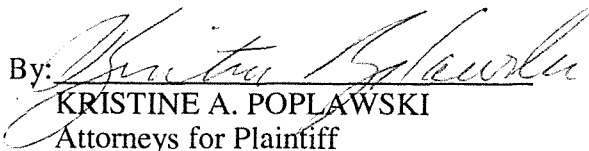
3 2. An order that Defendants pay \$2,500.00 in civil penalties for each of their acts of
4 unlawful and/or unfair competition;

5 3. Costs of suit; and

6 4. For such further and additional relief as the Court deems proper.

7
8 Dated: June 10, 2013

9 DENNIS J. HERRERA
10 City Attorney
11 OWEN J. CLEMENTS
12 Chief of Special Litigation
13 KRISTINE POPLAWSKI
14 CHRISTINE VAN AKEN
15 Deputy City Attorneys

16 By: 
17 KRISTINE A. POPLAWSKI
18 Attorneys for Plaintiff
19 THE PEOPLE OF THE STATE OF CALIFORNIA, ex
20 rel. San Francisco City Attorney Dennis J. Herrera
21
22
23
24
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26
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28

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Enter keyword SEARCH

CATEGORIES

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- Armalite
- ASC Magazines
- Beretta Magazines
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- Cobray
- Colt
- CZ
- D&H Industries
- DPMS
- FNH USA
- Glock
- GSG
- Heckler & Koch
- Kel-Tec
- M1 Carbine
- M1 Garand
- M1A & M14
- M3 Greasegun
- Magpul Industries
- Mec-Gar
- Mossberg
- NHMTG
- Ruger
- Sako
- Sig Sauer
- SKS
- Smith & Wesson
- Springfield XD
- Surefire
- Tactical Innovations
- VCI Bags
- Closeouts

California Large Capacity Magazine Repair Parts Kits

California Large Capacity Magazine Repair Parts Kits

44Mag.com offers large capacity magazine repair parts kits for sale to California customers. These are sometimes also referred to as rebuild kits. A magazine parts kit includes all of the parts of a magazine but the parts are not assembled into a magazine. The cost of a kit is the cost of a complete magazine plus an additional service charge usually about \$1.49. California DOJ has specifically stated that these kits are legal for sale in California. Please read all of the following information before placing an order.

California defines "large-capacity magazines" as those which hold more than 10 rounds. Since January 1, 2000 California residents have been unable to purchase or transfer any magazines with capacities over 10 rounds. The law allows residents to keep magazines that they owned prior to the law taking effect so there are still millions of legally owned magazines over 10 rounds in California.

Magazines are one of the most wear prone parts of a firearm and will of course need to be repaired over time. The millions of legally owned magazines in California are no exception. In 2005 the California Dept. of Justice issued a letter (link to .pdf copy) clarifying that it was legal for Californians to purchase replacement parts to repair or rebuild their existing legally owned magazines.

Any and all parts of the existing magazine can be replaced. The old parts do not need to be retained. It is not illegal to possess all of the parts to manufacture a new large-capacity magazine, as long as you do not manufacture the magazine in the state of California. Additionally it is legal to use the parts from a large capacity magazine repair parts kit to manufacture a magazine that holds ten rounds or less. This modification must be permanent.

To purchase large capacity magazine repair parts kits simply select the parts kit check box when adding the item to your cart. An additional service charge will apply that varies depending on which kit is purchased.

Frequent questions:

I don't live in CA but my state has magazine capacity restrictions can I order a repair parts kit? No, unless your state also issues a letter clarifying repair parts kit legality we will not be able to ship kits to any states besides CA.

I live in a state that doesn't have magazine restrictions can I order a repair parts kit? No, you can order the complete magazine so it would be silly to pay the extra fee for the exact same parts just in unassembled form.

Where can I get more information on CA magazine restrictions? We suggest Calguns Foundation Wiki.

It is the responsibility of the buyer to ascertain and obey all applicable local, state, and federal laws in regard to the possession, use, and sale of any item or parts purchased from 44Mag Distributing LLC.



Ordering repair kits is easy! Check the repair kit box when adding an item to your cart.



Example of a Glock repair parts kit.



Example of a Magpul PMAG repair parts kit.

SIGN UP FOR EMAIL SPECIALS

Enter E-mail Address

SIGN UP

Shipping Info | Returns | F

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Home Log In

Shopping Cart 0 item(s) - \$0.00

WE SHIP TO NYS WE SHIP TO CA CREDIT CARD CUSTOMERS PLEASE NOTE

Enter search keywords here

Accessories Airguns Ammunition AR Pistol Handgun Legal Compliance Less Lethal Magazines Optics Rifle Services Shotgun

Categories

- » Accessories->
- » Airguns
- » Ammunition->
- » AR Pistol->
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- » Legal Compliance
- » Less Lethal
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WE SHIP TO CA



Our CEO lived and worked in California on & off over the last 40 years. We've got your back, California!

Yes, we gladly ship to California customers!

If you purchase magazines which hold more than 10 rounds, we will automatically disassemble them into 100% legal repair/rebuild kits for compliance with CA law. We do not charge extra for this service. **Your invoice will clearly state (in ALL CAPS & BOLD) that you are receiving disassembled repair/rebuild kits.** Note that a few types of magazines are welded shut and can not be disassembled.

PLEASE NOTE: CA-Legal Magazine Repair / Rebuild Kits are considered USED the minute we open and disassemble them, and for that reason incur a significant restock fee if returned for any reason. Please research carefully to ensure the disassembled magazines you are purchasing will work with your weapon. We take special care during the disassembly process but parts of certain models of magazine repair/rebuild kits may exhibit scuffing or scraping or minor tool marks as a natural consequence of the disassembly process. We provide no warranty on magazine parts kits. Warranty claims must be made with the magazine manufacturer. Note that you may have no warranty rights if the manufacturer refuses to deal with a California customer. We can offer no instructions or assistance with reassembly or repair of your existing magazines.

Yes, Magazine Rebuild Kits are LEGAL in CA!

If you are concerned about the legality of purchasing disassembled magazines, please read this letter from the CA Department of Justice. (689k PDF)

Of course large capacity magazines are only part of the equation in CA. Aerosol self defense sprays > 2.5 oz per can are verboten but we'll ship you the smaller cans no problem. Non aerosol sprays are a no-go (e.g., Pepperblaster).

Proceeds from the sales of most items on this store go toward the development and production of California compliance devices, such as our Hammerhead AR-15 grip.

We're all hoping for the quick overturning of the CA semiautomatic rifle ban and the other crazy restrictions. We want everyone in this great country to enjoy shooting as we do here in Texas. Until then we'll be happy to get you everything we can legally ship to you.

What about the other Restricted States?

We do sell into the other ban states as well, but their laws are different from California's laws and so we do not sell postban high capacity mags or disassembled magazines for example to DC, HI (no high cap pistol mags, high cap rifle mags are OK), MA, MD, NJ, NY, and certain specific jurisdictions in IL, and any other place they are prohibited by state or local laws. Other products are restricted in the various states and these restrictions may not all be noted on the product page. Be sure you know the laws in your area before purchasing.

Home



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Exhibit D



Home Log In

Shopping Cart 0 item(s) - \$0.00

WE SHIP TO NYS WE SHIP TO CA CREDIT CARD CUSTOMERS PLEASE NOTE

Enter search keywords here

Accessories Airguns Ammunition AR Pistol Handgun Legal Compliance Less Lethal Magazines Optics Rifle Services Shotgun

Categories

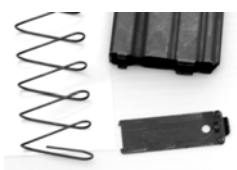
- Accessories-> Airguns Ammunition-> AR Pistol-> Handgun-> Legal Compliance Magazines-> Optics-> Rifle-> Services Shotgun->

Home :: Legal Compliance :: CA MAGAZINE DISASSEMBLY SERVICE

Legal Compliance

Item 2 of 19

Previous Listing Next



larger image

CA MAGAZINE DISASSEMBLY SERVICE

\$5.56

Disassembly of a Magazine (>10 rounds) into a repair/rebuild kit Service for magazines you are going to purchase elsewhere

WE NEVER CHARGE A FEE TO TAKE APART THE MAGS WE SELL. This service is ONLY for mags we do not stock that you are purchasing elsewhere (gunbroker, mail-order dealer, private party etc.) and the seller refuses to break them down for you.

INSTRUCTIONS

- 1. PLACE YOUR DISASSEMBLY SERVICE ORDER from this page for the number of mags you are having sent for us to disassemble. The quantity of this service ordered must equal or exceed the quantity of magazines you are having shipped here. In the order comments, you must write the name and location of your seller and the types of magazines you are having disassembled, e.g., Jake's Pawn Shop, Abilene TX, QTY 10 Galil/Golani 30 rd mags P/N GG1234. 2. WAIT FOR OUR APPROVAL EMAIL (this is not the same as the automated order confirmation email) 3. PLACE YOUR MAGAZINE ORDER WITH YOUR SELLER - If the seller won't even take your order, please stop reading and contact us at sales@exilemachine.com. 4. YOUR SELLER SHIPS MAGS HERE. The package MUST be addressed as follows:

EXILE MACHINE LLC ORDER # XXXXX <-- (Your Exile Machine order # from Step 1 above goes here) 400 E ROYAL LN, STE 290 BLDG 3 IRVING TX 75039

Packages not addressed in this manner will be returned to your seller. It is extremely important that the seller put our company name on the package.

- 5. WE DISASSEMBLE AND SHIP. When your mags arrive here we will break them down into CA legal rebuild kits and then ship to you.

PLEASE NOTE:

- MAGAZINES ONLY. Do not have the seller ship any other products or promotional items to us but the specific magazines you need to be disassembled. Any other products included with the order will be billed under our legal parts brokering service and the entire order will be held pending payment of that service. Handgun, rifle, shotgun mags OK. Mix and match magazine brands and types OK. Drums OK. One shipment from one vendor per disassembly order. For each different shipment or vendor, please place a new order from this page. This service is not applicable if we have the same brand and model of mags in stock on our store. FOR CALIFORNIA CUSTOMERS ONLY We are NOT an FFL so please do not have any guns shipped here, just mags. We provide no warranty passthrough on the original product. Warranty claims must be made with the seller of the magazines. Note that you may have no warranty rights at all if the seller refuses to deal with a CA customer. Transactions incomplete after 45 days will be cancelled and will forfeit the purchase price for this service. Any mag shipments received after the cutoff date will be refused. Actual shipping charges apply without regard to any shipping promotions that may be in effect on our store. We do not provide any assistance or instructions for: reassembly of the kits, blocking the kits to 10 rounds, or repair of your existing mags. We insure the first \$100 of your order value at no extra charge. If you are having more than \$100 worth of magazines disassembled, please purchase additional shipment insurance to cover loss or damage during shipment. This insurance only covers shipment from our facility. We do not cover shipment or insurance from your seller to us.

- Specials ... New Products ... Featured Products ... All Products ...

Manufacturers

Please Select

Reviews [more]



Write a review on this product.

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Add to Cart: 10 Min: 10 Add to Cart

Part Number: #CA_MAGAZINE_DISASSEMBLY_SERVICE 99111 Available Manufactured by: Exile Machine LLC

Tell a Friend

Exhibit D

Customers who bought this product also purchased...



LEGAL FIREARM PARTS BROKERING SERVICE



PROMAG SAIGA 308WIN 24RD BLK



AZOOM SNAP CAPS 308WIN 2/PK



GLOCK MAG EXT PLUS TWO 9/40/357



MAGAZINE GLOCK 22/35 40S&W 15RD



MAGAZINE GLOCK 22 40SW 22RD

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Now in your cart 0 items

NOTIFICATIONS



Notify me of updates to

CALIFORNIA Hi Cap Magazine Repair Kit

SHARE PRODUCT



0

MANUFACTURER INFO

- Other products

TAG CLOUD

CALIFORNIA
ONLY \$1.00
REPAIR KIT

PREVIOUS

Product 91 of 133

NEXT

This product was added to our catalog on Thursday 22 April, 2010.

CALIFORNIA Hi Cap Magazine Repair Kit
[SERVICE]

Price: **\$1.00**

CALIFORNIA ONLY

NO STATE OTHER THAN CALIFORNIA ALLOWS ITS RESIDENTS TO PURCHASE REPAIR PARTS FOR MAGAZINES THAT ARE ALREADY OWNED BY ITS RESIDENTS

REPAIR KITS ARE NON-REFUNDABLE AND NON-RETURNABLE - PLEASE ALLOW UP TO 48 HOURS EXTRA TIME REGARDLESS OF DELIVERY SERVICE TYPE. They are for REPAIR parts for legally owned Magazines ONLY.

CHOOSE THIS FOR EACH MAG YOU PURCHASE IF YOU WANT IT AS REPAIR PARTS.

High capacity Rifle and Pistol magazines can be disassembled into rebuild kits for shipment. There is a \$1.00 PER MAGAZINE charge for EACH MAG disassembly. NOTE: Some mags cannot be disassembled and shipped as a rebuild kit Such As 10/22 mags. Magazines may receive minor scratches or abrasions during disassembly. (If you order 3 Mags-you will need to enter 3 in the quantity box and then click UPDATE)

REVIEWS (0)

ADD TO CART

CUSTOMERS WHO BOUGHT THIS PRODUCT ALSO PURCHASED



ECWCS GEN III LEVEL 3 S-SHORT Fleece Jacket (NEW)

\$49.99



Pachmayr 357 Mag Azoom Snap Caps 6 Rounds

\$15.51

ADD TO CART



Allen Padded Endura Rifle Sling (85)

\$4.99

ADD TO CART



NobelSport 12Ga Due Trap 24 2.75" #7.5 Lead 7/8 Ounce 250rd Case

\$69.99

ADD TO CART

Exhibit D

ADD TO CART



UNFAIR ADVANTAGE

PRODUCTS

INNOVATION

DEALERS

PROPAGANDA

SUPPORT

CONTACT

LOG IN | CREATE AN ACCOUNT VIEW CART 0

SEARCH

SHOP MAGPUL

PRODUCT CATEGORIES

PMAG® MAGAZINES»

PMAG® ACCESSORIES»

MBUS® RIFLE SIGHTS»

BUTTSTOCKS»

RIFLE GRIPS»

HAND GUARDS & FORENDS»

RAILS & ACCESSORIES»

MAGAZINE ENHANCEMENTS»

SLINGS & SLING MOUNTS»

SHOTGUN ACCESSORIES»

THEORY BASED PRODUCTS»

MISCELLANEOUS ACCESSORIES»

MOE® PRODUCTS

MAGPUL ORIGINAL EQUIPMENT»

TRAINING VIDEOS»

PROPAGANDA ITEMS»

MAGPUL APPAREL»

IPHONE CASES»

SHIPPING & RETURNS

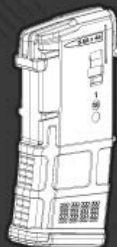
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CONDITIONS OF USE

CONTACT US

HOME / PMAG® MAGAZINES / PMAG® 20 AR/M4 GEN M3, 5.56X45 MAGAZINE

PMAG® 20 AR/M4 GEN M3, 5.56x45 Magazine



PLEASE ORDER FROM DEALERS & DISTRIBUTORS

DESCRIPTION	SPECS	RELATED INFO
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The next-generation PMAG 20 GEN M3 is a 20-round 5.56x45 NATO (.223 Remington) polymer magazine for AR15/M4 compatible weapons. Along with expanded feature set and compatibility, the GEN M3 incorporates new material technology and manufacturing processes for enhanced strength, durability, and reliability to exceed rigorous military performance specifications.

Modified internal and external geometry also permits operation with a wide range of non Colt-spec platforms such as the HK® 416 and MR556A1, M27 IAR, British SA-80, FN® SCAR™ MK 16/16S, and others. A redesigned bolt catch notch in the rear of the magazine provides increased bolt catch clearance, while an over-travel stop on the spine helps ensure the magazine will not over-insert on compatible weapons.

The PMAG 20 GEN M3 features a long-life USGI-spec stainless steel spring for commonality, four-way anti-tilt follower and constant-curve internal geometry for reliable feeding, and simple tool-less disassembly to ease cleaning. In addition, an included pop-off Impact/Dust Cover can optionally be used to minimize debris intrusion and protect against potential damage during storage and transit. Low profile ribs and new aggressive front and rear texture gives positive control of the GEN M3 in all environments, and a paint pen dot matrix has been added to the bottom panel of the body to allow easy marking by the end user for identification. The new, easy to disassemble flared floorplate aids extraction and handling of the magazine while providing improved drop protection, but is slightly slimmer than before for better compatibility with tight double and triple magazine pouches.

Made in U.S.A.

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The PMAG Minus 10 Round Limiter installs in 20 or 30 round GEN M3



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Minus 5 Round Limiter – PMAG® AR/M4 GEN M3, 3 Pack



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DESCRIPTION	SPECS	RELATED INFO
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The PMAG Minus 5 Round Limiter installs in 10, 20, or 30 round GEN M3 PMAG bodies, reducing the magazine capacity by five rounds. Designed for sporting and hunting applications, installation of the Limiter is simple, tool-less, and requires no permanent modification of the magazine body.

Made in U.S.A.

NOTE: Will NOT make a banned magazine legal! This product is intended for TEMPORARY capacity reduction of PMAG AR/M4 GEN M3 magazines. This product does not constitute a permanent capacity reduction. The user is responsible for knowing applicable laws in any jurisdiction the restricts magazines based on capacity or regulates magazine capacity for hunting. Please check all laws and regulations of your state and locality to determine the legality of your host ammunition magazines.

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Quick Overview

Magpul Pmag 10/30 with Magblock installed.

Magpul PMAG 30 round 5.56mm magazine converted to hold only 10 rounds using our exclusive Magblock.

- Block comes epoxied to the spring for a permanent modification unless requested as a rebuild kit from the drop down menu.

- Floor plates can also be epoxied upon request using the drop down menus.

- The original Magpul lower spring attachment is included. Our block replaces this part.

*Color

* Required Fields

Choose an Option...

Options (If none selected block comes epoxied to the spring)

Epoxy Floor plate closed

Add Ultimate Bullet Button Tool +\$2.00

Add Ranger Plate

None

Add Magpul Ranger Plate +\$4.95

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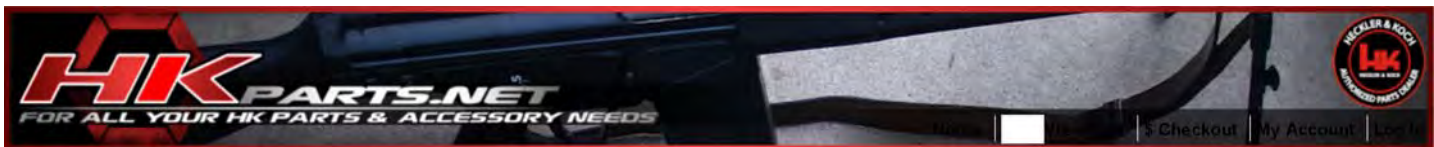
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The MagPul Gen 4 PMag AR-15 Magazine is constructed from advanced polymers exhibiting superior impact resistance and light weight. The 10/30-round magazine features a constant curve interior profile for enhanced feeding of cartridges. An anti-tilt follower and high quality stainless steel spring ensure reliable feeding, while the textured magazine body and flared floorplate improve handling over conventional metal-bodied magazines. The Pmag is designed to lock into place reliably on a closed bolt with a full 10 rounds, unlike standard magazines which are generally down-loaded. The snap-on Impact Cover protects the feed lips from impacts and debris while in storage or during transport, and allows fully loaded magazines to be stored long-term (over 1 year) without compromising the integrity of their feed lips. The design of the floor plate is simple to disassemble using the impact cover or an improvised punch for ease of cleaning and maintenance. Will accept all MagPul PMag accessories, such as Maritime Floor Plates and PMag Ranger Plates. Available in four molded-in colors: Black, Flat Dark Earth, Foliage Green and Olive Drab. Technical Information: 4th Generation 10/30 Configuration. 10 Round Magazine. Available in Black, Flat Dark Earth, Foliage Green and Olive Drab Anti-Tilt Follower and Stainless Steel Spring Impact Cover stores on bottom of magazine (with standard floorplate installed) Slim Body Ribs for snag free use in double and triple mag pouches Accepts PMag Ranger Plates and PMag Maritime Floor Plates Magpul PMAG 30 round 5.56mm magazine converted to hold only 10 rounds using our exclusive Magblock.

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HK USP Operators Manual

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MAGAZINE DISASSEMBLY

CAUTION: Beware of the spring tension exerted by the magazine spring while removing and installing the magazine floor plate. Keep the base of the magazine pointed in a safe direction (away from the face and eyes) at all times during disassembly.

Different types of USP magazines are in use, depending on model, caliber, and after the Fall of 1994; whether the magazines were produced for civilian or military/law enforcement use.

Disassembly of Law Enforcement/Military restricted use magazines and magazines produced before October 1994.

1. Using a blunt pointed instrument depress the locking detente located in the floor plate and hold it there (see Figure 34).
2. Place a portion of either hand over the base of the magazine to control the release of the magazine spring and locking plate.
3. Slowly slide the floor plate forward off of the magazine housing.



Figure 34

4. Gradually allow the locking plate and magazine spring to expand out of the magazine housing.
5. Remove the locking plate, magazine spring and magazine follower from the magazine housing.

Disassembly of magazines produced after October 1994 for U.S. civilian use.

1. Using a blunt pointed instrument depress the locking insert detente located in the floor plate and hold it there (see Figure 34).
2. Place a portion of either hand over the base of the magazine to control the release of the magazine spring and locking insert.
3. With the locking detente still depressed, squeeze the floor plate locking tabs located on the right and left

sides of the magazine.



Figure 35A

4. Gradually allow the locking insert and magazine spring to expand out of the magazine housing. (see Figure 35A)
5. Remove the locking insert, magazine spring and magazine follower from the magazine housing.

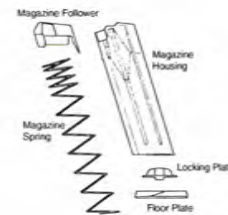


Figure 35B Restricted Use Magazine

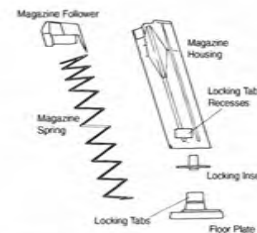


Figure 35C 10 round Civilian Magazine

MAGAZINE ASSEMBLY



Figure 36

1. Place the magazine follower onto the magazine spring with the end of the spring positioned on the left of the follower. (See Figure 37)
2. Insert the follower and magazine spring into the magazine housing as depicted in Figure 36.
3. Place the locking plate, or locking insert on US civilian magazines, onto the protruding end of the magazine spring so that the rounded corners face towards the front of the magazine.

4. Push the locking plate down into the magazine housing against the pressure of the magazine spring and **hold it there.**

5. **On 10-round magazines,** push the floor plate up onto the base of the magazine housing until the locking tabs engage in the sides of the housing. Check to see if the locking tabs on the floor plate are securely locked into the housing and the locking detente on the locking plate fits within the hole in the floor plate.

On restricted use magazines, push the floor plate over the base of the magazine housing and the locking plate from front to rear. Make sure the floor plate is fully seated on the magazine housing and the locking detente on the locking plate fits within the hole in the floor plate.

On all magazines, check the magazine for proper assembly by insuring that the follower slides up and down freely within the magazine housing and with spring tension. Also check that the magazine follower rises within the magazine housing to be nearly flush against the bottom of the magazine lips.

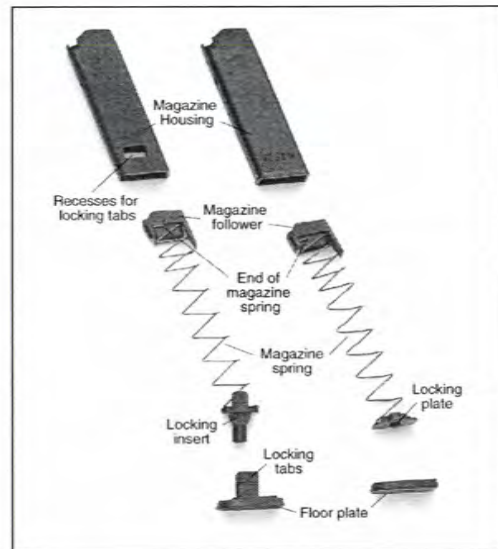


Figure 37
"Civilian use" 10-round magazine (left), Law Enforcement/Military "restricted use" magazine (right)



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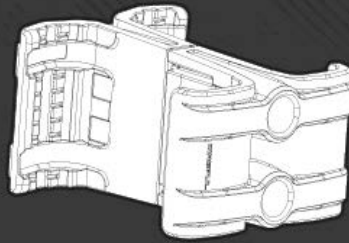
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MagLink™ Magazine Coupler – PMAG® 30 GEN M2 MOE/GEN M3



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DESCRIPTION	SPECS	RELATED INFO
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The MagLink is a coupler for PMAG 30 AR/M4 GEN M2 MOE and GEN M3 magazines which allows the user to attach two magazines together for more efficient speed reloads, and to keep an additional 30 rounds of ammunition accessible on the weapon at all times. The MagLink features a two-piece bolt on design and durable, lightweight reinforced polymer construction.

Black only. Made in U.S.A.



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