

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

JUNE SHEW, <i>et al.</i> ,	:	
	:	
	:	
Plaintiffs,	:	Case No. 3:13-cv-00739-AVC
v.	:	
	:	
DANNEL P. MALLOY, <i>et al.</i> ,	:	
	:	
Defendants.	:	August 23, 2013

PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT

Plaintiffs, by and through their attorneys, respectfully move this Court pursuant to Fed.R.Civ.P. 56 for an Order: (1) granting declaratory judgment that Connecticut’s Act Concerning Gun Violence Prevention and Children’s Safety (“the Act”) is unconstitutional as it violates of the Second Amendment and the Equal Protection Clause of the U.S. Constitution; and (2) permanently enjoining the implementation and enforcement of the Act. Specifically, Plaintiffs seek to permanently enjoin the enforcement of and/or the prosecution of citizens under the following sections of the Connecticut General Statutes (as amended or created by corresponding sections of the Act):

1. CONN. GEN. STAT. §§ 53-202p(a)(1), 53-202p(e)(3), and 53-202q(f)-(g), which make it unlawful to possess an ammunition feeding device containing more than ten rounds of ammunition.

**ORAL ARGUMENT REQUESTED ON AN EXPEDITED BASIS
TESTIMONY REQUIRED**

2. CONN. GEN. STAT. § 53-202p(c), which makes it unlawful to possess, and CONN. GEN. STAT. § 53-202p(b), which makes it unlawful to transport, ship, or dispose of, a large capacity ammunition feeding device.

3. CONN. GEN. STAT. § 53-202b(a)(1), which makes it unlawful to distribute, transport or import into the state, keep for sale, or offer or expose for sale, or give any “assault weapon.”

4. CONN. GEN. STAT. § 53-202c(a), which makes it unlawful to possess any “assault weapon.”

5. CONN. GEN. STAT. § 53-202p(a)(1), in referring to any device “that can be readily restored or converted to accept” more than ten rounds of ammunition.

6. CONN. GEN. STAT. § 53-202p(a)(1), in referring to any device that “has a capacity of, or that can be readily restored or converted to accept, more than” ten rounds of ammunition, as applied to tubular magazines for other than .22 caliber firearms.

7. CONN. GEN. STAT. § 53-202a(1)(E)(i) and (vi), defining “assault weapon” in part as certain rifles and shotguns as having “a folding or telescoping stock” or “a pistol grip, a thumbhole stock, or any other stock, the use of which would allow an individual to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing,” or certain shotguns having both such features.

8. CONN. GEN. STAT. § 53-202a(1)(E)(vii), which defines an “assault weapon” as a semiautomatic shotgun with “an ability to accept a detachable magazine.”

9. CONN. GEN. STAT. § 53-202a(1)(A)(i), which names as “assault weapons” 67 separate firearms, and CONN. GEN. STAT § 53-202a(1)(A)(ii), which describes an “assault weapon” as “a part or combination of parts designed or intended to convert a firearm into an assault weapon,

as defined in subparagraph (A)(i) of this subdivision, or any combination of parts from which an assault weapon, as defined in subparagraph (A)(i) of this subdivision, may be rapidly assembled if those parts are in the possession or under the control of the same person.”

10. CONN. GEN. STAT. § 53-202a(1)(B), which names as “assault weapons” 88 “specified semiautomatic centerfire rifles, or copies or duplicates thereof with the capability of any such rifles, that were in production prior to or on the effective date of this section.”

11. CONN. GEN. STAT. § 53-202a(1)(C), which names as “assault weapons” 27 semiautomatic pistols “or copies or duplicates thereof with the capability of any such pistols, that were in production prior to or on the effective date of this section.”

12. CONN. GEN. STAT. § 53-202a(1)(D), which names as an “assault weapon” one shotgun “or copies or duplicates thereof with the capability of any such shotguns, that were in production prior to or on the effective date of this section.”

13. CONN. GEN. STAT. § 53-202a(1)(F), which describes as an “assault weapon” a “part or combination of parts designed or intended to convert a firearm into an assault weapon, as defined in any provision of subparagraphs (B) to (E), inclusive, of this subdivision, or any combination of parts from which an assault weapon, as defined in any provision of subparagraphs (B) to (E), inclusive, of this subdivision, may be assembled if those parts are in the possession or under the control of the same person.”

14. As is set forth in the accompanying Memorandum of Law, the Act violates the plaintiffs’ rights under the Second Amendment to the United States Constitution, denies the plaintiffs the Equal Protection of the laws, and is unconstitutionally vague and ambiguous.

15. The plaintiffs are likely to succeed on the merits of their claims against the defendants, and the plaintiffs are suffering irreparable harm by the passage, implementation and enforcement of this unconstitutional legislation. In addition, neither the public interest nor the defendants' interests justify the implementation and enforcement of the Act. This Court should therefore issue a preliminary injunction against the Act's implementation and enforcement.

16. The facts and law supporting this motion are fully set out in the Memorandum of Law that accompanies this motion.

17. The plaintiffs respectfully request that the Court hear oral argument on this motion on an expedited basis. Good cause for expedited argument exists in that the Act has criminalized the sale and possession of previously-legal firearms now classified as "assault weapons" and standard magazines now classified as "large capacity feeding devices." These items are currently possessed by plaintiffs and thousands of other law-abiding Connecticut citizens. The Act's ban, and the ill-defined vagueness of its terms, not only violate the constitutional rights of the plaintiffs, but have caused widespread confusion throughout Connecticut as to how the Act is to be implemented and obeyed. The Act has also created fear of immediate felony prosecution and imprisonment in the minds of the plaintiffs and law-abiding citizens throughout Connecticut.

18. Expedited argument on and resolution of this Motion for Summary Judgment is required to rectify the Act's ongoing constitutional violations and to provide clarity as to the implementation and enforcement of the Act.

Dated: August 23, 2013

Respectfully Submitted,

LAW OFFICE OF STEPHEN HALBROOK

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CERTIFICATION

I hereby certify that on August 23, 2013, a copy of the foregoing MOTION FOR SUMMARY JUDGMENT was filed electronically and served by mail upon anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

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