



FPC: Vermont’s Constitution Protects “Large Capacity” Magazines

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Today, Firearms Policy Coalition (FPC) and Firearms Policy Foundation (FPF) announced the filing of an important legal brief in the Vermont Supreme Court regarding the State of Vermont’s ban on so-called “large-capacity” magazines. The brief, joined by the Cato Institute and Independence Institute, argues that Vermont’s history and tradition proves that so-called “large capacity” magazines are protected by the Vermont Constitution, and that banning such magazines makes bad policy because they are common and effective arms for defense of self and others. The FPC brief is available online at [FPCLegal.org](https://www.fpclegal.org).

Vermont defines a “large-capacity” firearm magazine as a magazine with a capacity of 10 rounds for a long gun or 15 rounds for a handgun. Those magazines, they argue, are both constitutionally protected and effective tools of self-defense.

“Vermont has a remarkable history, which reflects a heavy reliance on firearms and a powerful desire for freedom and independence. This brief provided us with a great opportunity to explore that history, including the heroic Green Mountain Boys, Vermont militia, and Allen brothers,” said FPC Director of Research and brief author, Joseph Greenlee. “Given Vermont’s Founders’ appreciation of firearms and dependence on them, it is impossible that they would have enshrined a constitutional right that allows the government to prohibit some of the most common and effective arms for self-defense.”

Background

- This case is a challenge to Vermont’s prohibition on “large capacity ammunition feeding devices”—defined as magazines with a capacity of “more than 10 rounds of ammunition for a long gun” or “more than 15 rounds of ammunition for a handgun” (see 13 V.S.A. § 4021).
- The challenger, Max Misch, argued that the magazine prohibition violates the right to keep and bear arms protected by the Vermont Constitution. The case is currently before the Vermont Supreme Court.
- FPC filed a brief arguing that the magazine prohibition is unconstitutional, based on the factors the Vermont Supreme Court applies to constitutional challenges.

- First, the magazine prohibition is contrary to Vermont’s history and tradition, including the social and political setting in which its constitution was ratified. Specifically, firearms with capacities of over 15 rounds have existed since 1580, and were well-known and embraced by America’s Founders; Vermont’s first constitutional arms provision was ratified during the Revolutionary War, which started in response to aggressive British gun controls; and Vermont’s most influential Founders were firearm enthusiasts, arguing that one person could own 20,000 guns and commonly carrying multiple firearms at once to increase ammunition capacity.
- Second, magazine prohibitions like Vermont’s have been a rarity throughout American history, especially before the Prohibition era.
- Third, magazine prohibitions make bad public policy. “Large capacity” magazines are effective for self-defense—as the statute’s exemption for law enforcement necessarily concedes—and are rarely used in mass shootings.
- FPC was joined in the brief by the Firearms Policy Foundation, Cato Institute, and Independence Institute.
- The brief was authored by FPC’s Director of Research, Joseph Greenlee, along with David Kopel of the Independence Institute, Vermont attorney Ethan Fenn, and Ilya Shapiro and Trevor Burrus of the Cato Institute.