

**Re: S.B. 1094 An Act Banning Large Capacity Ammunition Magazines**

**Testimony in Opposition above raised bill**

- Although its intent is well meaning, if made into law this bill would punish law abiding citizens based upon the violent and reprehensible crimes of individuals for which these citizens share no responsibility or propensity towards, whatsoever.
- This bill, if made law, could not be effectively enforced on the intended target population – violent criminals who ignore laws against violent crimes – who would simply ignore or easily circumvent it.
- This bill, if made into law, would unjustly criminalize innocent law abiding citizens for possessing property which was lawfully and rightfully obtained, in no way used for any illegal purpose, and lawfully utilized with no criminal intent.
- I believe confiscation of magazines provided for in this bill constitutes seizure of personal property without probable cause, which is in violation of the Fourth and Fifth Amendments to the U.S. Constitution and the Fourteenth Amendment to the U.S. Constitution, Section 1. (Supporting text attached)
- I believe the confiscation of magazines provided for in this bill constitutes *Post Ex Facto* law, which is in direct violation of Article 1, Sections 9 and 10 of the U.S. Constitution. (Supporting text attached)
- I believe the confiscation of magazines provided for in this bill constitutes seizure of personal property without just compensation, which is in violation of the Fifth Amendment of the U.S. Constitution. (Supporting text attached)
- Police, who operate with backup and within groups are provided by the bill to be exempt from the bill's magazine size restriction, yet "civilian" law abiding gun owners who must face criminals alone are required to abide by the restriction or face Class D felony charges. Thus is to deny them "equal protection of the law" provided under the Fourteenth Amendment to the U.S. Constitution, Section 1. (Supporting text attached)
- The following statistics from the Bureau of Justice Statistics supports the premise that law abiding citizens should not be denied the right to possess these magazines for self defense:
  - Homicides are more likely to involve multiple offenders than multiple victims.
  - The proportion of homicides involving multiple offenders rose dramatically in the late 1980's and early 1990's and remains high; it was 11.5% in 1976 and 20.3% in 2005.
  - The proportion of homicides involving multiple victims increased gradually during the last two decades from 3.1% of all homicides in 1976 to 4.4% in 2005.

Source: <http://bjs.ojp.usdoj.gov/content/homicide/multiple.cfm> Office of Justice Programs, Bureau of Justice Statistics

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**Article 1, Section 9 :** No bill of attainder or ex post facto law shall be passed.

**Article 1, Section 10:** No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

The first definition of what exactly constitutes an ex post facto law is found in *Calder v Bull* (3 US 386 [1798]), in the opinion of Justice Chase:

*1st. Every law that makes an action done before the passing of the law, and which was innocent when done, criminal; and punishes such action. 2d. Every law that aggravates a crime, or makes it greater than it was, when committed. 3d. Every law that changes the punishment, and inflicts a greater punishment, than the law annexed to the crime, when committed. 4th. Every law that alters the legal rules of evidence, and receives less, or different, testimony, than the law required at the time of the commission of the offense, in order to convict the offender.*

**Fourth Amendment to U.S. Constitution:**

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

**Fifth Amendment to U.S. Constitution:**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

**Fourteenth Amendment to U.S. Constitution, Section 1:**

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.