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LAWS ON HIGH CAPACITY MAGAZINES

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You want to know (1) about the expired federal ban on high capacity ammunition magazines and (2) what states currently ban or restrict such magazines.

SUMMARY

The term high capacity ammunition magazines (sometimes called large capacity magazines or high capacity ammunition feeding devices) generally refers to gun magazines capable of holding more than 10 rounds of ammunition. But statutory definitions vary. A 1994 congressional ban on magazines capable of holding more than 10 rounds of ammunition expired in 2004 and was not renewed. Consequently, high capacity ammunition magazines are legal unless banned by state or local governments. Connecticut does not regulate the magazines.

Six states and the District of Columbia (D.C.) currently ban or restrict large capacity magazines. Maryland defines a “large capacity magazine” as a magazine capable of accepting more than 20 rounds. New Jersey defines it as one capable of accepting more than 15 rounds, and California, Hawaii, Massachusetts, New York, and D.C. define it as a magazine capable of accepting more than 10 rounds. (On January 15, 2013, the NY Legislature amended its law. Beginning March 16, the law defines high capacity magazines as magazines capable of firing more than seven rounds.)

In five states (California, Maryland, Massachusetts, New Jersey, and New York) and D.C., the ban applies to large capacity ammunition magazines used with any firearm. The Hawaii ban applies only to such magazines used with handguns.

The Massachusetts ban exempts magazines lawfully possessed on September 13, 1994 (the date the federal ban took effect). New Jersey bans the possession, manufacture, transfer, and transportation of large capacity magazines, including pre- and post-ban magazines. New York bans these same activities and, beginning March 16, the ban will apply to all large capacity magazines, including ones previously grandfathered. (California effectively grandfathers the possession of pre-ban large capacity magazines by not outlawing possession of such magazines.)

LARGE CAPACITY MAGAZINES

What are they?

An ammunition magazine is the feeding device that holds ammunition used by a firearm. The device may be detachable or built into the firearm. The number of bullets a magazine can hold depends on the bullet size, gun design, and magazine design. The more bullets a magazine holds, the more bullets a shooter can fire without having to reload the firearm. Magazines that have the capacity to hold more than 10 rounds of ammunition are generally considered to be large capacity or high capacity magazines.

Federal Law

The 1994 federal Violent Crime Control and Law Enforcement Act, which amended the 1968 Gun Control Act, made it illegal to transfer or possess “large capacity ammunition feeding devices” not lawfully possessed on or before the law’s enactment. But the law permitted the sale of magazines manufactured before the ban (formerly codified at 18 USC § 922(w)(1) and (2)). (The act also banned the manufacture, transfer, and possession of semi-automatic assault weapons.)

The act defined “large capacity ammunition feeding device” as “a magazine, belt, drum, feed strip, or similar device . . . that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition.” It exempted attached tubular devices designed to accept and capable of operating only with .22 caliber rim fire (18 USC § 921(a)(31(A) &(B)). The act included a sunset clause, under which the ban expired after 10 years, on September 13, 2004. Congress allowed the law to expire, and consequently, formerly banned high capacity ammunition magazines (and assault weapons) are now legal unless banned by state or local governments.

CALIFORNIA

Under California law, a “large capacity magazine” is an ammunition feeding device that can hold more than 10 rounds of ammunition. The definition does not include (1) .22 caliber tube ammunition feeding devices, (2) feeding devices permanently altered so that it cannot hold more than 10 rounds, or (3) tubular magazines in a lever-action firearm (Cal. Penal Code § 16740).

With limited exceptions, it is illegal to give; lend; manufacture; import; or keep, offer, or expose for sale large capacity magazines in California (Cal. Penal Code § 32310). But the law does not ban possession.

Upon a showing of good cause, the California Department of Justice may issue permits for transactions involving licensed California gun dealers and out-of-state customers (Cal. Penal Code § 32315 and Cal. Penal Code Regs tit. 11, § 5480).

The law allows the manufacture of large capacity magazines for (1) federal, state, or local governments or law enforcement agencies and (2) authorized use by agency employees performing their official duties (Cal. Penal Code § 32440). The magazines may also be (1) used as props in motion pictures, television, or video productions and (2) resold to law enforcement and government agencies, and the military, under applicable federal regulations (Cal. Penal Code §§ 32445, 32440, & 32450).

DISTRICT OF COLUMBIA

D.C. defines a “large capacity ammunition feeding device” as a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition. The term does not apply to attached tubular devices designed to accept and capable of operating only with .22 caliber rimfire ammunition (D.C. Code Ann. § 7-2506.01(b)).

D.C. prohibits the possession, sale, or other transfer of large capacity ammunition feeding devices, regardless of whether they are attached to a firearm. Except in certain narrow circumstances, it prohibits the District’s Metropolitan Police Department from transferring any ammunition feeding device in its possession to anyone, other than a law enforcement officer or government agency for law enforcement purposes (D.C. Code Ann. § 5-133.16).

HAWAII

Hawaii prohibits the manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of detachable ammunition magazines with a capacity in excess of 10 rounds which are designed for or capable of use with a pistol. The ban does not apply to magazines modified to accept 10 rounds or fewer (Haw. Rev. Stat. Ann. § 134-8(c)).

MARYLAND

Maryland prohibits anyone from manufacturing, receiving, purchasing, transferring, selling, or offering for sale any detachable magazine that can hold more than 20 rounds of ammunition for a firearm (Md. Code Ann., Crim. Law § 4-305(b)). The ban does not apply to .22 caliber rifles with a tubular magazine (Md. Code Ann., Crim. Law § 4-305(a)).

MASSACHUSETTS

Massachusetts defines a “large capacity feeding device” as: a (1) fixed or detachable magazine, box, drum, feed strip or similar device capable of accepting, or that can be readily converted to accept, more than 10 rounds of ammunition or more than five shotgun shells or (2) large capacity ammunition feeding device as defined in the now-expired federal Public Safety and Recreational Firearms Use Protection Act as it appeared on September 13, 1994. (Mass. Gen. Laws ch. 140 § 121).

Massachusetts prohibits anyone from possessing, transferring, selling, or offering large capacity feeding devices for sale, unless they were lawfully possessed on September 13, 1994 (Mass. Gen. Laws ch. 140 § 131M). The ban does not apply to attached tubular devices designed to accept, and capable of operating only with, .22 caliber ammunition (Mass. Gen. Laws ch. 140 §§ 131M & 121). It also does not apply to (1) manufacturers or wholesalers, (2) law enforcement officers who possess the devices for law enforcement purposes, and (3) any retired law enforcement officer not otherwise prohibited from receiving the devices from his or her agency upon retirement.

The law requires the public safety secretary to compile and publish a roster of firearms and feeding devices that it determines meet these definitions (Mass Gen. Laws ch. 140 § 131 3/4).

NEW JERSEY

New Jersey law defines “large capacity ammunition magazine” as a box, drum, tube, or other container that is capable of holding more than 15 rounds of ammunition to be fed continuously and directly into a semi-automatic firearm (NJ Stat. Ann. § 2C:39-1y).

New Jersey prohibits the manufacture, transportation, shipment, sale, or disposal of any large capacity ammunition magazine not intended for authorized military or law enforcement purposes (NJ Stat. Ann. § 2C:39-9(h)). New Jersey prohibits the knowing possession of a large capacity magazine unless the possessor has registered an assault firearm pursuant to state law and uses the magazine in connection with competitive shooting matches sanctioned by the director of civilian marksmanship of the U.S. Department of the Army (NJ Stat. Ann. § 2C:39-3(j)). The law also exempts from the ban possession of the magazines by authorized military or law enforcement personnel for official purposes.

NEW YORK

New York prohibits the manufacture, transportation, disposal, and possession of large capacity ammunition feeding devices. Prior law defined a large capacity feeding device as “a magazine, belt, drum, feed strip, or similar device” manufactured after September 13, 1994 (the date the now-expired federal assault weapon and large-capacity magazine ban became effective), “that has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition.” It excludes attached tubular devices designed to accept and capable of operating only with .22 caliber rimfire ammunition (NY Penal Code §§ 265.00(23), 265.02(8) & 265.10).

On January 15, 2013, New York Governor Andrew Cuomo signed into law the N.Y. Secure Ammunition and Firearms Enforcement Act of 2013 (S 2230). The act extends the ban on large capacity magazines that have the capacity to hold more than 10 rounds of ammunition to include those magazines manufactured before September 14, 1994 (they were previously exempt from the ban). The act creates a new ban on magazines that hold more than seven rounds of ammunition. Magazines that can hold more than seven but no more than 10 rounds that are possessed before the ban are grandfathered, but may only contain seven rounds. The ban excludes large capacity magazines that are curios or relics.

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