

# **PRESS RELEASE**

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## **First Major Success in Lawsuit Challenging New Gun Control Laws**

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Today the Independence Institute's federal civil rights lawsuit achieved its first major success, eliminating the problems that were caused by two vague phrases in House Bill 1224, the magazine ban.

The Independence Institute's David Kopel is representing 55 elected Sheriffs and one retired police officer in lawsuit against the new anti-gun laws signed by Governor Hickenlooper last March.

Tuesday night, on the eve of a federal court hearing, the plaintiffs and the Colorado Attorney General agreed on proposal to fix two problems the magazine ban.

First, the magazine ban applies to magazines which are "designed to be readily converted" to hold more than 15 rounds. This could outlaw some or all magazines which have removable base plates; if a base plate is removed, an extender can be attached to a magazine that will increase the magazine's capacity.

The Attorney General agreed to issue new guidance to state law enforcement that will remedy this problem. The new language says that magazines with removable base plates are only illegal if they have actually been altered so that they *do* hold more than 15 rounds. "Unless so altered, they are not prohibited."

The second problem, which has also been fixed, was that House Bill 1224 required the grandfathered owners of magazines to maintain "continuous possession." This outlawed many innocent and constitutionally protected activities, such as leaving magazine for a gunsmith for two weeks while it is repaired, or loaning a magazine to a family member.

The Attorney General agreed to fix this problem by issuing additional guidance to law enforcement, stating that: "'Continuous possession' is only lost by a voluntary relinquishment of dominion and control." "Dominion" is a legal term for the highest level of ownership rights. So if you loan your magazine to your daughter for a week, and she does not have the right to sell the magazine, then you still have "dominion."

The practical result of the new language is that owners of grandfathered magazines can now engage in all lawful activities with those magazines, including loaning them to friends and family. The grandfathered owners simply may not sell the magazines, or give away ownership.

For the Sheriffs, this means that they can now return a stolen magazine to its rightful owner.

The successful resolution of these issues was achieved by voluntary agreement with the Attorney General. However, that agreement never would have happened without the pressure of the preliminary injunction motion which we filed on June 10, as well as our subsequent filings and briefs.

Because the Attorney General did, ultimately, voluntarily agree to put these changes into Technical Guidance which is binding on the executive branch of the state government, U.S. District Judge Marcia Krieger decided that it would be unnecessary for her to issue an injunction.

With these two issues now resolved, we are beginning preparation for a full trial on the merits. The trial will be our challenge to the entirety of the unconstitutional anti-gun laws:

- House Bill 1224 bans the sale of magazines holding more than 15 rounds. We will argue and present evidence that this violates the Second Amendment, as interpreted by the U.S. Supreme Court in *District of Columbia v. Heller*. The *Heller* decision forbids bans on arms which are “Typically possessed by law-abiding citizens for lawful purposes.” We will show magazines of up to 20 rounds for handguns, and up to 30 rounds for rifles, are standard for many popular firearms, and thus protected under *Heller*.
- House Bill 1229 imposes paperwork, fee, and background check requirements on many ordinary uses of guns—such as loaning a gun to a friend for a week when he goes on a hunting trip. We will argue and present evidence that it is unconstitutional to treat temporary firearms loans as if they were firearms sales made by a gun store.

Today’s success shows that our legal strategy is working. We have removed the problems of two badly misdrafted provisions in the magazine ban. If we have the proper resources to take the rest of the case to a full trial on the merits, we are hopeful that we can liberate Colorado entirely from House Bills 1224 and 1229, which are unconstitutional and harmful to public safety.

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