

# ASSAULT WEAPONS BAN UPHELD

Mahony, Edmund H . Hartford Courant ; Hartford, Conn. [Hartford, Conn]31 Jan 2014: A.1 .

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## ABSTRACT

Gun control advocates were buoyed Thursday by a federal court decision in Hartford that upholds Connecticut's toughest-in-the-nation assault weapons ban, calling it a constitutionally valid means of balancing gun rights and the government's interest in reducing gun violence. A coalition of gun owners, gun sellers and sports shooting organizations sued in U.S. District Court to block enforcement of the law and overturn it on constitutional grounds.

## FULL TEXT

Gun control advocates were buoyed Thursday by a federal court decision in Hartford that upholds Connecticut's toughest-in-the-nation assault weapons ban, calling it a constitutionally valid means of balancing gun rights and the government's interest in reducing gun violence.

"The court concludes that the legislation is constitutional," senior U.S. District Judge Alfred V. Covello wrote in a decision published late Thursday. "While the act burdens the plaintiffs' Second Amendment rights, it is substantially related to the important governmental interest of public safety and crime control."

The legislature enacted comprehensive restrictions on ownership of semiautomatic weapons and ammunition early last year in the emotionally charged weeks following the mass shooting at Sandy Hook Elementary School in Newtown. Troubled gunman Adam Lanza killed 20 first-grade students and six women with a now-banned AR-15 Bushmaster assault rifle that his mother bought.

A coalition of gun owners, gun sellers and sports shooting organizations sued in U.S. District Court to block enforcement of the law and overturn it on constitutional grounds. The plaintiffs argued that the state's ban of 138 weapons and large-capacity ammunition magazines is vague, discriminates among different categories of gun users and, most significantly, infringes on their Second Amendment right to gun ownership.

In defending the ban, Connecticut Attorney General George Jepsen argued that handguns and rifles on the state's list of banned assault weapons were designed for killing people and should not be generally owned and used.

Covello, a Republican appointee, dismissed all three constitutional challenges in his 47-page decision.

"Obviously, the court cannot foretell how successful the legislation will be in preventing crime," Covello wrote.

"Nevertheless, for the purposes of the court's inquiry here, Connecticut, in passing the legislation, has drawn reasonable inferences from substantial evidence."

The Brady Campaign to Prevent Gun Violence called the Connecticut suit and similar suits in other states attempts by gun manufacturers to protect market share.

"This suit was not about the Second Amendment," said Brady lawyer John Lowy, who joined the state's defense of the law. "This is about the gun lobby's interest in making guns and selling them to as many people as possible."

New York attorney Brian T. Stapleton, who sued on behalf of the gun owners and other plaintiffs, called the decision disappointing.

"This is a long way from over," he said. "We respect Judge Covello, but respectfully disagree with him. An appeal was anticipated in this case. There are findings that we can work with and we are going to do everything we can to get this overturned."

Covello's opinion comes during a period of mixed results in the national battle between gun ownership and gun control.

Federal gun control measures have failed for lack of support in Congress. After President Barack Obama made only a passing reference to the issue in his State of the Union speech this week, three members of Congress, among them Rep. Elizabeth Esty, D-5th District, introduced a resolution in an effort to revive the issue.

Meanwhile, gun control measures were adopted last year in Colorado, Maryland and New York. The New York law recently was upheld in a decision similar to Covello's.

"We are gratified by the court's decision," Jepsen said. "The measures enacted by the General Assembly in response to the Sandy Hook tragedy are entirely appropriate, sensible and lawful. We will continue to vigorously defend them in the event of any appeal that may be filed of this decision."

Covello relied on the U.S. Supreme Court's 2008 Heller decision, which found a law banning handgun ownership in the District of Columbia to be an unconstitutional infringement of the Second Amendment. The Supreme Court concluded that the Second Amendment protects ownership of guns, such as handguns, that are "in common use," meaning that they are widely owned and legally used for purposes such as personal protection.

The Connecticut plaintiffs argued that assault weapons are commonly used, in the state and throughout the country, for hunting, sporting competitions and home protection. Common usage makes the weapons and large-capacity magazines subject to Second Amendment protection, the plaintiffs argued.

The state, in its defense of the law, disputed the claim of widespread usage. Referring to Sandy Hook, it argued that the banned weapons and magazines present unjustifiable threats and that gun violence will decrease if both are outlawed.

Covello, agreeing with the plaintiffs, concluded that the weapons and magazines are commonly owned and legally used in Connecticut and elsewhere. But he parted company with the plaintiffs when he wrote that the state's ownership and sales ban is justified when the government's goal of reducing violence is measured against the ban's impingement on Second Amendment rights.

The Second Amendment rights of gun owners are adequately protected by the large number of alternate weapons that can be used for protection, hunting and sports events, he wrote.

On several occasions, Covello adopted the state's arguments that assault weapons are designed, not for cosmetic purposes, but for "lethality." And he referred to an affidavit by a state expert who asserted that "Connecticut's bans on assault weapons and large capacity magazines, and particularly its ban on (large capacity magazines), have the potential to prevent and limit shootings in the state over the long run."

The plaintiffs argued that the ban is unfairly discriminatory because it exempts off-duty military and police officers by allowing them to own and use the weapons and magazines. Covello said that comparisons between recreational gun owners and law enforcement officers trained in assault weapon use are invalid.

While acknowledging that "several provisions of the legislation are not written with the utmost clarity," Covello also dismissed a claim by the plaintiffs that the law is unconstitutionally vague.

The assault weapon law at issue in the suit is the legislature's third refinement of a ban it first enacted in 1993.

The ban has become increasingly restrictive each time lawmakers have returned to it.

#### THE GUN LAW ENACTED IN 2013

"The court concludes that the legislation is constitutional. While the act burdens the plaintiffs' Second Amendment rights, it is substantially related to the important governmental interest of public safety and crime control."

U.S. District Judge Alfred V. Covello

Expand ban on assault weapons. Owners of newly banned assault rifles have to register their weapons.

Ban sale of magazines holding more than 10 rounds.

Universal background checks for all gun purchases.

Create a dangerous weapon offenders registry.

Require certificate of eligibility or gun permit to buy ammunition.

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## DETAILS

<b>Subject:</b>	Firearm laws & regulations; Federal court decisions; Litigation; Crime prevention; Legislation; Mass murders
<b>Location:</b>	Connecticut
<b>Company / organization:</b>	Name: Congress; NAICS: 921120
<b>Publication title:</b>	Hartford Courant; Hartford, Conn.
<b>First page:</b>	A.1
<b>Publication year:</b>	2014
<b>Publication date:</b>	Jan 31, 2014
<b>Dateline:</b>	HARTFORD
<b>Section:</b>	MAIN (A)
<b>Publisher:</b>	Tribune Publishing Company LLC
<b>Place of publication:</b>	Hartford, Conn.
<b>Country of publication:</b>	United States, Hartford, Conn.
<b>Publication subject:</b>	General Interest Periodicals--United States
<b>ISSN:</b>	10474153
<b>Source type:</b>	Newspapers
<b>Language of publication:</b>	English
<b>Document type:</b>	News
<b>ProQuest document ID:</b>	1493006728
<b>Document URL:</b>	<a href="https://search.proquest.com/docview/1493006728?accountid=10341">https://search.proquest.com/docview/1493006728?accountid=10341</a>
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<b>Last updated:</b>	2014-01-31
<b>Database:</b>	Hartford Courant

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