

## CALIFORNIA SPECIAL ALERT:

### **NRA AND CRPA ATTORNEYS OPPOSE CALIFORNIA'S REQUEST TO IMMEDIATELY HALT "LARGE-CAPACITY" MAGAZINE RULING**

On Tuesday, April 2, NRA and CRPA attorneys filed an [opposition](#) to California's request seeking an immediate stay of enforcement of [Friday's decision](#) in the case of [Duncan v. Becerra](#), which found California's restrictions against so-called "large-capacity" magazines unconstitutional and unenforceable. The decision by the United States District Court for the Southern District of California is a tremendous victory for gun owners in California, striking down California's restrictions against the manufacture, importation, sale, transfer, receipt, and possession of magazines capable of holding more than 10 rounds, most of which have been in place for nearly two-decades.

Unsurprisingly, DOJ filed [a request for a stay of judgment](#) Monday afternoon. As noted in DOJ's motion:

*To effectively preserve the status quo, and to prevent a sudden influx of large capacity magazines (LCMs) into the State of California (the "State"), Defendant respectfully requests that the Court issue an immediate, temporary stay pending its ruling on the application for a stay pending appeal. Even if this Court, or the Ninth Circuit, ultimately issues a stay pending appeal, the State will suffer irreparable injury if LCMs are permitted to flow into the State in the interim. Defendant respectfully requests that such a temporary stay be issued by no later than **April 2, 2019**.*

In sum, DOJ is asking the court to immediately stay the injunction *as early as today* while the court considers arguments from all the parties and decides whether to permanently stay the injunction pending the appeal. But, as the NRA and CRPA attorneys note in their brief to the court, any stay of enforcement, if granted, would jeopardize the hundreds—if not thousands—of California gun owners who have already relied upon the Court's ruling in good faith and have purchased magazines capable of holding more than 10 rounds.

DOJ has also asked the court to make a decision on whether to stay the judgment until an appellate court rules—which could take well over a year—by **April 5, 2019**.

It is critical that California gun owners stay up-to-date on the developments in *Duncan* to ensure they do not inadvertently violate California law should a stay be issued. To that end, be sure to visit [NRA-ILA's website](#) and [CRPA's website](#) to sign up for email alerts.

In the meantime, NRA and CRPA attorneys have prepared the following list of commonly asked questions with answers to assist gun owners in understanding what the decision means and how this latest development affects them.

#### **1. WHAT DOES THE MARCH 29, 2019, RULING DO?**

It puts in place an injunction (an order to refrain from performing a certain act) prohibiting enforcement of California Penal Code section 32310, which criminalizes the manufacture, importation, transfer (including giving and loaning), acquisition, and possession of a "large capacity magazine" ("LCM"), defined as an ammunition feeding device capable of accepting more than 10 rounds of ammunition.

**2. HAS THE RULING TAKE EFFECT?**

Yes; under FRCP Rule 62(c)(1), the injunction prohibiting enforcement of the LCM restrictions ordered by the court took effect the minute it was issued on March 29, 2019.

**3. DOES THE RULING MEAN I CAN NOW ACQUIRE NEW MAGAZINES CAPABLE OF HOLDING MORE THAN 10 ROUNDS IN CALIFORNIA?**

The short answer is yes. However, there are potential risks to consider before attempting to make any purchase. For example, should an individual order “large capacity” magazines from an online distributor, and during the shipping process a subsequent order from a court stays the enforcement of the injunction, subdivision (a) of Penal Code section 32310 will once again be in effect—including the restriction against “receiving” any “large-capacity” magazine. Meaning the delivery of an order after the injunction has been stayed will arguably be in violation of subdivision (a) of Penal Code section 32310.

**4. DOES THE RULING MEAN I CAN KEEP MY MAGAZINES CAPABLE OF HOLDING MORE THAN 10 ROUNDS?**

As of the date of this writing the answer is: yes. The restriction on possessing an LCM has been unenforceable since June 29, 2017, when this same court issued a preliminary injunction preventing it from taking effect while the parties litigated the merits of the case. And because CA DOJ is seeking a stay only as to the provisions allowing for acquisition of new LCMs, the injunction against the possession restriction should remain in effect for the time being. That said, people should stay tuned to CRPA and NRA alerts to be updated of any changes.

**5. DOES THE RULING MEAN I CAN USE MY MAGAZINES CAPABLE OF HOLDING MORE THAN 10 ROUNDS AT A SHOOTING RANGE?**

Because of the preliminary injunction already in place prior to this ruling, there was no restriction on “possessing” a lawfully acquired LCM and thus no restriction on using one. As long as the injunction on the possession restriction remains in place, LCMS can be lawfully used.

**BEWARE:** The ruling does NOT mean you can use an LCM in a semiautomatic, centerfire rifle with a “fixed magazine,” e.g., an AR-platform rifle with a device affixed to only allow removal of the magazine when the upper is separated from the lower, or similar device, that is designed to avoid “assault weapon” designation.

**6. WHAT ARE THE PENALTIES FOR VIOLATING PENAL CODE SECTION 32310?**

Should the injunction be stayed, any person who “manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, buys, or receives” any “large-capacity” magazine can be charged with either a misdemeanor or felony punishable with imprisonment. Should the preliminary injunction against the “possession” restriction be stayed, any person who possesses a “large-capacity” magazine

can be charged with an infraction punishable as a fine of up to \$100 per magazine, or a misdemeanor punishable by a fine up to \$100 per magazine, imprisonment, or both.

**7. WHERE CAN I VIEW A COPY OF THE COURT'S DECISION?**

A copy of the order granting the permanent injunction can be viewed online at <http://michellawyers.com/wp-content/uploads/2019/03/Duncan-2019-03-29-Order-Granting-Plaintiffs-MSJ.pdf>.

**8. WHO IS RESPONSIBLE FOR LITIGATING THE CASE?**

The California Rifle & Pistol Association, with support from the National Rifle Association, filed this lawsuit after hearing the fear and outrage from its members who were being forced by the passage of Proposition 63 and Senate Bill 1446 in 2016 to either surrender their “large-capacity” magazines to the government or become criminals.

For more information, visit CRPA’s website at [www.CRPA.org](http://www.CRPA.org) and the NRA’s website at <https://www.nraila.org/campaigns/california/stand-and-fight-california/>. And be sure to subscribe to CRPA and NRA email alerts to stay informed on the latest developments regarding this case.