

# Ten Reasons Why States Should Reject "Assault Weapon" and "Large" Magazine Bans

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Introduction: In the late 1980s, gun control groups realized that they had failed in their original goal—getting handguns banned<sup>1</sup>—and began campaigning against semi-automatic firearms they called “assault weapons,” most of which are rifles. As an anti-gun activist group put it:

[A]ssault weapons [will] strengthen the handgun restriction lobby for the following reasons: It will be a new topic in what has become to the press and public an “old” debate. . . . [H]andgun restriction consistently remains a non-issue with the vast majority of legislators, the press, and public. . . . Efforts to restrict assault weapons are more likely to succeed than those to restrict handguns. . . . Although the opportunity to restrict assault weapons exists, a question remains for the handgun restriction movement: How?<sup>2</sup>

Gun control supporters demanding a ban on “assault weapons” have also demanded a ban on ammunition magazines that hold more than 10 rounds, most of which are designed for self-defense handguns. These gun and magazine bans should be rejected because:

**Reason #1: Semi-automatic firearms are not fully-automatic military machine guns.** Gun control supporters say that *semi*-automatic rifles like the AR-15 are “military-style assault weapons” designed for “war” on “the battlefield.” But the military uses *fully*-automatic rifles, which are regulated as “machineguns” by the National Firearms Act of 1934. The difference is that a fully-automatic firearm can fire repeatedly and quickly as long as you hold down the trigger, but a semi-automatic, like any firearm other than a fully-automatic, fires only once when you pull the trigger. To see videos showing the difference, and media attempts to trick the public about it when gun-ban legislation is pending, visit this [page](#) on our GunBanFacts website.

**Reason #2: Semi-automatic firearms are not “more powerful” than other guns.** Gun control supporters call “assault weapons” (and all other firearms, for that matter) “high-powered.” However, a firearm’s power is determined by the caliber (rifles and handguns) or gauge (shotguns) of its ammunition, semi-automatic rifles and shotguns use the same ammunition as many other rifles and shotguns, and semi-automatic handguns use ammunition comparable to revolver ammunition. So-called “assault weapons” are much less powerful than many rifles used to hunt deer and other large game.

**Reason #3: As the numbers of “assault weapons” and “large” magazines have soared to all-time highs, violent crime has been cut in half.** The nation’s total violent crime rate peaked in 1991. Since then, it has decreased 49%, to a 41-year low, including a 52% drop in the nation’s murder rate, to a 48-year low—nearly the lowest point in American history.<sup>3</sup> Meanwhile, the number of the most popular firearm that gun control supporters call an “assault weapon”—the AR-15 semi-automatic rifle—has risen by 3.5 million, the number of all semi-automatic firearms has risen by about 50 million, and the total number of privately-owned firearms has risen by over 120 million.<sup>4</sup> The number of new magazines that hold more than 10 rounds has risen by many tens of millions.<sup>5</sup>

**Reason #4: So-called “assault weapons” have never been used in more than a small percentage of firearm-related violent crime.** The study that Congress required of the federal “assault weapon” and “large” magazine ban of 1994-2004 concluded that “the banned weapons and magazines were never used in more than a modest fraction of all gun murders” even before the ban, and that the law’s 10-round limit on new ammunition magazines wasn’t a factor in multiple-victim or multiple-wound crimes.<sup>6</sup> A follow-up study found “gunshot injury incidents involving pistols (which use magazines) were less likely to produce a death than were those involving revolvers” (which don’t use magazines), and “the average number of wounds for pistol victims was actually lower than that for revolver victims.”<sup>7</sup> Police reports and felon surveys have found that “assault weapons” are used in only 1%-2% of violent crimes.<sup>8</sup> The vast

majority of firearms that gun control supporters call “assault weapons” are rifles, and there are 12 times as many murders with knives, blunt objects (hammers, clubs, etc.), and “personal weapons” (hands, feet, etc.), as with rifles of any type.<sup>9</sup>

**Reason #5: “Assault weapon” and “large” magazine bans have not reduced crime.** After its 1989 ban, California’s murder rate increased every year for five years, 26% overall. California banned more guns in January 2000 and murder has since averaged 14% higher than the national rate.<sup>10</sup> The Bureau of Alcohol, Tobacco, Firearms and Explosives says it can “in no way vouch for the validity”<sup>11</sup> of Brady Campaign’s claim<sup>12</sup> –repeated by “assault weapon” ban campaigner Sen. Diane Feinstein (D-Calif.)<sup>13</sup>— that the federal “assault weapon” law reduced crime. (Brady mischaracterized BATFE’s firearm chain-of-commerce traces, which the Congressional Research Service says “are not accurate indicators” of criminal gun use.<sup>14</sup> Most guns that are traced have not been used to commit violent crimes, and most guns used to commit violent crimes are never traced.<sup>15</sup>) Even the radical anti-gun group, Violence Policy Center, said “You can’t argue with a straight face that the ban has been effective.”<sup>16</sup> The FBI does not list guns or “gun control” as a “crime factor” and California doesn’t credit its “assault weapon” ban for the state’s recent decrease in crime.<sup>17</sup> Studies for the CDC, the National Academy of Sciences, and the Library of Congress have found no evidence that “gun control” reduces crime.<sup>18</sup>

**Reason #6: Criminals could easily get around a limit on newly-manufactured magazines.** As noted, Americans already own tens of millions of magazines that hold more than 10 rounds. If the manufacture of new such magazines were banned, the cost of pre-ban magazines would rise (as it did when the 1994 ban was imposed), but any criminal determined to have them would always be able to get them, including by theft from law-abiding owners. A criminal could carry multiple limited-capacity magazines and use them to reload a firearm quickly. A criminal could also carry multiple guns. A criminal could also resort to a method other than a firearm.

**Reason #7: Criminals could switch to more concealable guns.** When the federal “large” magazine ban of 1994-2004 was imposed, limiting the capacity of new magazines to 10 rounds, many gun owners switched from full-size handguns holding between 13-17 rounds, to small “sub-compact” models holding only 10 rounds. This is ironic, because the firearms that gun control supporters most wanted to see banned from the 1970s until they refocused their energies on “assault weapons,” were compact handguns, which (as a thinly veiled insult to the African-American community) they called “Saturday Night Specials.”<sup>19</sup>

**Reason #8: Criminals could switch to more powerful guns.** Another response to the 1994 federal law limiting new magazines to 10 rounds was the switch by many gun owners to handguns which, instead of holding between 13-17 rounds of small-caliber handgun ammunition, held exactly 10 rounds of large-caliber handgun ammunition. As with the sub-compact 10-round models mentioned above, such handguns are now commonplace.

**Reason 9: The Second Amendment protects the right to semi-automatic firearms and magazines designed for self-defense.** Semi-automatic firearms were introduced in the late 1800s, and have been popular for self-defense, hunting and target shooting for decades. As examples, the landmark Kleck-Gertz survey of defensive firearms uses found that 40% of all such uses are performed with semi-automatic handguns,<sup>20</sup> and all firearms used in the annual National Rifle and Pistol Matches are semi-automatic.<sup>21</sup>

Gun control supporters argue that the Founding Fathers could not have envisioned semi-automatic firearms, and thus the Second Amendment protects the right to own only 18<sup>th</sup> century firearms such as muskets. However, the Supreme Court of the United States dismissed that notion in *District of Columbia v. Heller* (2008), saying: “some have made the argument, bordering on the frivolous, that only those arms in existence in the 18th century are protected by the Second Amendment. We do not interpret constitutional rights that way. Just as the First Amendment protects modern forms of communication and the Fourth Amendment applies to modern forms of search, the Second Amendment extends, *prima facie*, to all instruments that constitute bearable arms, even those that were not in existence at the time of the

founding.”<sup>22</sup> The court also declared that the Second Amendment guarantees “the individual right to possess and carry weapons in case of confrontation,” and that a handgun ban was unconstitutional in part because “handguns are the most popular weapon *chosen by Americans* for self-defense in the home.” (Emphasis added.)

While a police officer can carry extra magazines on his duty belt, and have a rifle or shotgun in his patrol car, and call for back-up, a private citizen attacked in a parking lot, or at home in the middle of the night, will probably have only the magazine within the firearm. No one should be arbitrarily limited in the number of rounds he or she can have for self-defense, especially when a police officer or sheriff’s deputy isn’t there to help.

**Reason 10: The slippery slope.** Gun control supporters have attempted to apply the “assault weapon” label to more and more semi-automatic firearms and, in some instances, even to pump-action firearms.<sup>23</sup> California expanded its 1989 “assault weapon” ban in 2000. The 1989 ban’s sponsor in the state assembly said that the 1989 ban “did what we wanted to do. We got our nose under the tent. We saw this as a beginning.”<sup>24</sup> As the federal “assault weapon” ban of 1994 was about to expire, a bill was introduced in Congress to dramatically expand the number of firearms it banned, including all semi-automatic shotguns, the historic M1 Garand, and the M1 carbine.<sup>25</sup> In 1993, Sen. Dianne Feinstein (D-Calif.) introduced “assault weapon” legislation to ban 19 firearms by name; in 2013, her bill proposes to ban 120.<sup>26</sup> Some magazine limits have been arbitrarily set at 10 rounds, but limits of seven, six and even three rounds have been suggested.<sup>27</sup>

For more information, visit [www.GunBanFacts.com](http://www.GunBanFacts.com).

Notes:

1. The National Coalition to Ban Handguns (NCBH), the purpose of which is evident in the name, and the National Council to Control Handguns, which openly stated that it wanted all handguns registered in order to make confiscation possible, were formed in the 1970s. (Respectively, they are now known as the Coalition to Stop Gun Violence and the Brady Campaign to Prevent Gun Violence.) Another anti-gun group today, the Violence Policy Center, was formed in 1988 as the New Right Watch by a former communications director of the NCBH, who still openly advocates banning handguns. Handgun prohibition advocates became disillusioned in the 1980s due to several factors: Handgun ban referenda had been overwhelmingly defeated in Massachusetts in 1976 and California in 1982. In 1982, Congress repealed the 1968 Gun Control Act’s requirement that buyers of .22 rimfire ammunition sign ledgers. In 1986, Congress enacted the NRA-supported Firearm Owners’ Protection Act, which, among other things, eliminated the ledger-signing requirement relative to all other handgun ammunition. Congress had rejected legislation intended to prohibit most handguns and most ammunition. The Right-to-Carry (a handgun, for protection) movement had begun at the state level, with the landmark enactment of a “shall issue” carry permit law in Florida. For more information, visit this [page](#) on our GunBanFacts website.
2. Violence Policy Center, “Assault Weapons and Accessories in America,” 1988. See this [page](#) of our GunBanFacts website.
3. FBI Uniform Crime Reports, *Crime in the United States*, [annual reports and UCR data tool](#). See also Manuel Eisner, “[Long Term Historical Trends of Violent Crime](#),” University of Chicago, 2001.
4. BATFE, [Annual Firearms Manufacturer and Export Reports](#) and [Firearms Commerce in the United States 2011](#).
5. The number rose by 50 million between 1994-2004 alone, according to the federal “large” magazine ban’s sponsor in the House of Representatives. (Sen. Charles Schumer, D-N.Y., press release, “Schumer Moves to Renew Federal Ban on Assault Weapons,” May 8, 2003. Schumer was a U.S. Representative in 1994.) Also, Americans buy between 4-5 million new semi-automatic handguns annually, and most of them are designed to use magazines that hold more than 10 rounds. (Note 4, BATFE, firearm manufacturer reports.)
6. Roth, Koper, et al., “[Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994](#),” Urban Institute, March 13, 1997.
7. Reedy and Koper, “Impact of handgun types on gun assault outcomes: a comparison of gun assaults involving semiautomatic pistols and revolvers,” *Injury Prevention*, 2003.

8. Gary Kleck, *Targeting Guns*, 1997; Dave Kopel, [Rational Basis Analysis for 'Assault Weapon' Prohibition](#); Bureau of Justice Statistics, "[Survey of State Prison Inmates 1991](#)," (3/93); "[Guns Used in Crime](#)," (7/95); "[Firearm Use by Offenders](#)," (11/01), Pennsylvania State Police, Bureau of Laboratory and Communication Services, Ballistics Section, *Weapons Database Report* covering Jan. 1, 1989 to May 20, 1994.
9. FBI, *Crime in the United States 2011*, [Expanded Homicide data Table 8](#).
10. Note 3, FBI.
11. Torsten Ove, "Assault weapon ban's effectiveness debated," *Pittsburgh Post-Gazette*, 3/26/04.
12. Brady Campaign, "[On Target](#)," March 2004.
13. Sen. Dianne Feinstein website, "[Stopping the spread of deadly assault weapons](#)," Dec. 2012. Feinstein also misrepresents the finding of the congressionally-mandated study of the federal "assault weapon" and "large" magazine ban, claiming that it found a 6.7% reduction in gun murders after the ban. This is what the study actually said: "At best, the assault weapons ban can have only a limited effect on total gun murders, because the banned weapons and magazines were never involved in more than a modest fraction of all gun murders. Our best estimate is that the ban contributed to a 6.7 percent decrease in total gun murders between 1994 and 1995, beyond what would have been expected in view of ongoing crime, demographic, and economic trends. However, with only one year of post-ban data, we cannot rule out the possibility that this decrease reflects chance year-to-year variation rather than a true effect of the ban. Nor can we rule out effects of other features of the 1994 Crime Act or a host of state and local initiatives that took place simultaneously." (Emphasis added.)
14. *Report for Congress: "Assault Weapons": Military-Style Semi-Automatic Firearms Facts and Issues*, 5/13/92.
15. See BATFE, Firearms Trace Data, second page of any state-specific document, "ATF Firearms Trace Data Disclaimer," available by clicking [here](#).
16. Rick Montgomery, "Clock ticking on assault gun ban," *Kansas City Star*, May 2, 2004.
17. FBI, *Crime in the United States, 2011*, "[Variables Affecting Crime](#)." Leonard A. Marowitz, "[Why Did the Crime Rate Decrease Through 1999?](#)," California Criminal Justice Statistics Center, California Department of Justice, December 2000. The link is to the report's summary, which contains links to the entire report's sections.
18. CDC, "First Reports Evaluating the Effectiveness of Strategies for Preventing Violence: Firearms Laws," Oct. 3, 2003; National Academy of Sciences, [Firearms and Violence: A Critical Review](#), 2004; Library of Congress, "Firearms Regulations in Various Foreign Countries," May 1998.
19. In 1996, two years after the federal "assault weapon" ban was imposed, Sen. Barbara Boxer (D-Calif.) introduced S. 1654, proposing to ban compact handguns, which she termed "junk guns." Another compact handgun prohibition advocate in the same timeframe was then-Rep. Rod Blagojevich (D-Ill.), later impeached, removed from the office of Governor of Illinois, and sent to federal prison for corruption. His H.R. 4786 (2000) would have banned compact handguns as "pocket rockets." For more information, go to this [page](#) of our GunBanFacts website.
20. Gary Kleck and Marc Gertz, "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense With A Gun," *Journal of Criminal Law and Criminology*, Fall 1995, p. 185.
21. For more information, see this [page](#) of our GunBanFacts website.
22. To read the court's opinion, click [here](#), then click on the first link provided.
23. The anti-gun Law Center to Prevent Gun Violence's "[model law](#)" for state and local "assault weapon" bans defines "assault weapon" to include detachable-magazine pump-action center-fire and rimfire rifles.
24. See this [page](#) of our GunBanFacts website.
25. Rep. Carolyn McCarthy (D-N.Y.), H.R. 2038 in 2003, H.R. 1312 in 2005, and H.R. 1022 in 2007.
26. Note 13.
27. N.Y. Gov. Andrew Cuomo has suggested seven rounds. (Jacob Sullum, "[Cuomo Wants to Copy California's 'Assault Weapon' Ban and Limit Magazines to Seven Rounds](#)," *N.Y. Daily News* blog, Jan. 10, 2013. Note that Calif.'s ban does not include a seven-round limit.) Future Handgun Control, Inc. president Richard Aborn suggested six rounds. ("Testimony of Richard M. Aborn Before the Committee on Codes of the Assembly of the State of New York," Jan. 3, 1991, "There is no reason why a legitimate gun owner needs to have a clip capable of holding more than six rounds, and thus I would suggest the banning of clips that hold more than six rounds.") Sen. Dianne Feinstein has suggested three rounds. ("I intend to add an amendment that would exempt semiautomatic bolt action (sic) shotguns and bona fide

hunting rifles whose (sic) clips don't exceed three rounds," *Congressional Record*, July 29, 1993.) For more information, visit our GunBanFacts website by clicking [here](#) and [here](#).