



Written by [Bob Adelman](#) on December 16, 2022

## Oregon Judge Shreds State's Defense, Extends Ban on Measure 114

Robert Raschio, presiding judge for Oregon's 24th Judicial District, heard arguments on both sides of the issue on Tuesday and [then extended the ban](#) on implementation of Measure 114, while lambasting the state's defense.

At issue is just the part of the law — which was narrowly passed in November — that restricts the sale, ownership, or possession of magazines to 10 rounds or fewer. Raschio has put in place a separate ban on implementing the rest of Measure 114.

That separate ban will remain in place, ruled Raschio:

The court will maintain the Temporary Restraining Order [TRO] ... until the state provides notice that it is prepared to deploy a "Permit to Purchase" program.... The court will [then] hold a preliminary injunction hearing ... to determine if [that] program can constitutionally be deployed.



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On Tuesday, in an attempt to make its case that the magazine ban didn't infringe on the rights Oregonians have under the state's constitution, the defense tried to fudge the numbers. It claimed that 593 people died from firearms in 2020.

But looking closely at a study presented by the defense, the judge pointed out that "in 2020, 122 of [those deaths were] with a weapon ... and 70.5% of those weapons were firearms meaning [that in a state with more than 3.4 million citizens] there were 86 homicides with [a] firearm."

He pointed out that "magazines are an integral part of firearms.... Limiting magazine sizes has a direct impact on who can use a firearm in self-defense.... Weaker individuals compensate for the inability to use larger caliber ammunition with larger magazines."

But he saved his vitriol for the defense's use of "proof" provided by a study titled "Evidence Concerning the Regulation of Firearms Design, Sale, and Carrying on Fatal Mass Shootings in the United States."

He wrote:

The results were the researchers "found no evidence that concealed carry laws, assault



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weapons bans, prohibitions for domestic abusers and violent misdemeanants, or point-of-sale [criminal background checks] were associated with the incidents of fatal mass shootings.”...

The court finds the article states there is no scientific certainty [that] large capacity magazine bans have an impact on fatalities and casualties.

Raschio went on by quoting from the study itself:

The findings of this study suggest that the most common policy prescriptions offered by advocates on each side of the debate over gun control — comprehensive background checks and assault weapon bans on one side and so-called “Right to Carry” [i.e., “Constitutional Carry”] laws reducing restrictions on civilian concealed carry of firearms on the other side — do not seem to be associated with the incidence of fatal mass shootings.

The judge also found “that there is less than a 1 in 1,000,000 chance of a person being a fatality in a mass shooting in Oregon, and even less with an offender who is using large capacity magazines.”

He added that “The court cannot sustain a restraint on a constitutional right on mere speculation that the restriction could promote public safety,” and then ended with gusto:

The defendants’ own literature “seems” to show that the ban will help with fatalities. No definitive scientific evidence has been provided that large capacity magazine bans have any impact on the number of fatalities or casualties now or in future events.

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