

Submitter: Thomas Armstrong
On Behalf Of:
Committee: Senate Committee On Judiciary
Measure: SB348

Proposed SB 348 is legally flawed and if signed in to law will be invalidated for the following reasons:

1. Prohibiting magazines of greater than 10 round capacity possessed prior to enactment of SB 348 violates both the Oregon and US Constitution:

“No state shall ... pass any ... ex post facto law ...” Art. I, Sec.10, US. Const.

“No ex-post facto law ... shall ever be passed ...” Art. I, Sec. 21, Oregon Const.

An ex post facto law “... retroactively changes the legal consequences (or status) of actions that were committed, or relationships that existed, before the enactment of the law.”

Under SB 348, law abiding citizens who legally purchased magazines of greater than 10 round capacity on or after December 8, 2022 would not longer be able to possess such magazines.

With the stroke of a pen, SB 348 would make criminals out of many law abiding Oregonians.

2. Fees for the permit to purchase license for a firearm SB 348 are increased to \$150 for the initial license and \$110 for the five year renewal.

Fees of any amount are unconscionable and illegal when applied to a fundamental Constitutional right.

A permit to purchase a firearm is directly analogous to a poll tax wherein a voter must pay for the right to vote.

Poll taxes have been determined to be illegal under the 24th Amendment to the US Constitution as well as by the 14th Amendment's guarantee of due process.

And Oregon's Constitution unambiguously states: “All elections shall be free and equal.” (Art. II, Sec. 1)

Poll taxes were intended to affect the poor (and other minorities) and an exorbitant fee for a permit to purchase a firearm is no different.

The poor, by definition, live in less affluent areas that are subject to more violent crime and thus have a stronger need for the most effective means of self defense.

Enactment of SB 348 would significantly impact the fundamental right of self defense for Oregon's already disenfranchised populations.

3. In *New York State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111 (2022), the US Supreme Court ruled that any law that infringes the right to keep and bear arms must be based on an historical analogue from the United States' Founding Era.

There are no founding era analogs that prohibit the size or capacity of a firearm ammunition feeding device.

There are no founding era analogs that required a permit or license to purchase a firearm, let alone a high monetary fee or tax for such a permit.

Thus, SB 348 is invalid under *Bruen*.

4. Section 23 of SB 348 states:

“This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.”

Where is the emergency? What events have transpired that makes this bill so important?

Even the text of SB 348 alludes to this:

It is not until July 2024 that the permit to purchase requirement (Sec 6) and July 2026 (“TRANSFERS OCCURRING ON OR AFTER JULY 1, 2026,” Sections 17 to 19) take effect.

If there is truly a public peace health and safety emergency why wait? Shouldn't these crucial elements of SB 348 be effective upon enactment?