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## Press Release

### **Americans Against Gun Violence Responds to the Adoption of Illinois Assault Weapon and Large Capacity Magazine Ban**

**Sacramento California, September January 13, 2023:** Americans Against Gun Violence commends the Illinois State Legislature for passing HB 5471 and Illinois Governor JB Pritzker for signing this bill into law on January 9, 2023. The bill, also known as the Protect Illinois Communities Act and enrolled as Public Act 102-1116, includes both an assault weapons ban and a ban on large capacity magazines. This law is a significant step forward - from a symbolic point of view, at least – toward curbing the epidemic of gun violence that afflicts both the State of Illinois and the rest of our country.

The assault weapons and large capacity magazine ban was passed in response to the mass shooting last year at the Fourth of July parade in Highland Park, Illinois. The reasons why the adoption of this law is probably more of symbolic than real life significance, though, in preventing gun violence include the following:

- The “assault weapons ban” in HB 5471, like similar bans adopted in the past by several other states and the federal ban that was in place from 1994-2004, defines assault weapons in such a way that gun manufacturers can produce and sell semi-automatic firearms that have the same potential (or very nearly the same potential) for being used to kill and maim large numbers of people in a short period of time but that evade the definition of an “assault weapon.”<sup>1</sup>
- Like other US “assault weapons bans,” HB 5471 includes a “grandfather clause” that allows persons who already own firearms that fit the definition of “assault weapons” to keep them provided that they register them with the state police.
- Although there is clearly no legitimate civilian use for “assault weapons,” and although they’ve been used in many recent horrific mass shootings, they account for a very small fraction of all gun-related deaths in the United States, most of which are committed with handguns.<sup>2</sup>
- The fact that firearms can be easily transported across state lines in a clandestine manner limits the effectiveness of any individual state assault weapons ban that is not accompanied by an equivalent federal ban.
- Other high income democratic countries like Great Britain,<sup>3</sup> Australia,<sup>4</sup> and New Zealand<sup>5</sup> all reacted promptly to mass shootings by completely banning civilian ownership of all automatic and semi-automatic long guns - not just so-called “assault weapons” - with no grandfather clause. Great Britain, which has one of the lowest rates of gun related deaths in the world, went a step further in completely banning civilian ownership of all handguns.<sup>6</sup>
- The “large capacity magazine” ban in HB 5471 defines a large capacity magazine as one which can hold more than 10 rounds of ammunition. Ten bullets can be

used to kill 10 people, and mass shooters typically carry multiple magazines that they can quickly exchange.

- The gun lobby will undoubtedly challenge the Illinois assault weapons and large capacity magazine ban on a Second Amendment basis, and if the case gets to the Supreme Court, the current majority will almost certainly rule the Illinois law to be unconstitutional. On June 30, 2023, the Supreme Court effectively invalidated a similar assault weapons ban in Maryland and similar large capacity magazine (LCM) bans in California and New Jersey by issuing “GVR”<sup>7</sup> orders in the cases of *Bianchi v. Frosh*<sup>8</sup> (challenging Maryland’s assault weapons ban), *Duncan v. Bonta*<sup>9</sup> (challenging California’s LCM ban) and *Association of New Jersey Rifle, et al. v. Bruck*<sup>10</sup> (challenging New Jersey’s LCM ban). One week earlier, the Supreme Court had overturned New York’s requirement for a special permit to carry a concealed handgun in its *Bruen* decision.<sup>11</sup> The Court issued the June 30 GVR orders “in light of *Bruen*.”

Although for the reasons discussed above, the adoption of the Illinois assault weapons and large capacity magazine ban may be largely a symbolic victory, symbolic victories are important. The adoption of HB 5471 indicates a desire on the part of the people of Illinois for definitive measures to stop the shameful epidemic of gun violence that affects their state and the rest of the country.

It is the position of Americans Against Gun Violence that we have not only the ability, but also the moral responsibility to reduce rates of gun related deaths in the United States to levels comparable to the rates in other high income democratic countries of the world – countries in which mass shootings occur rarely, if ever, and in which the average rate of gun related deaths is one tenth the rate in our country. In order to adopt such laws, which include a complete ban on civilian ownership of all handguns and all automatic and semi-automatic long guns with no “grandfather clause,” we must first overturn the Supreme Court’s rogue 2008 *Heller* decision<sup>12</sup> and its progeny.

In *Heller*, a narrow 5-4 majority of justices ruled that the District of Columbia’s partial handgun ban violated the Second Amendment. In doing so, the *Heller* majority reversed over two centuries of legal precedent, including four prior Supreme Court opinions,<sup>13</sup> by ruling for the first time in US history that the Second Amendment conferred any kind of individual right to own a gun unrelated to service in a “well regulated militia.” The same five justices in the *Heller* majority ruled in the 2010 *McDonald* decision<sup>14</sup> that Chicago’s partial handgun ban also violated the Second Amendment. As discussed above, the progeny of *Heller* now also includes the *Bruen* decision, in which three remaining justices from the *Heller* majority (Alito, Roberts, and Thomas) and three new Trump nominees (Gorsuch, Kavanaugh, and Barrett) ruled that New York’s concealed handgun law was unconstitutional; and the June 30 GVR orders, which effectively invalidated state assault weapons and LCM bans similar to those in the new Illinois law.

The *Heller* decision and its progeny endorse an interpretation of the Second Amendment that the late Supreme Court Chief Justice Warren Burger called “one of the greatest pieces of fraud” on the American public by special interest groups that he had ever seen in his lifetime.<sup>15</sup> But *Heller* and its progeny are worse than a fraud. In creating constitutional obstacles, where none previously existed, to the adoption of stringent gun control laws in the United States comparable to the laws in other high income democratic countries, *Heller* and its progeny are literally death sentences for tens of thousands of Americans annually.

We believe that an important step toward overturning *Heller* and its progeny is to point out the fraudulent misrepresentation of the Second Amendment by the current majority of Supreme Court justices and the disastrous public health consequences of this fraud while defending cases like the Illinois assault weapons and large capacity magazine ban. Americans Against Gun Violence is the only organization in the entire country that openly advocates and is actively working toward overturning *Heller* and its progeny, and we're the only organization that has filed *amicus curiae* (friend of the court) briefs in important Second Amendment cases, including in *Bruen* and in *Duncan v. Bonta*, making the case that *Heller* and its progeny were egregiously wrongly decided and should be overturned, and that lower courts should interpret these cases as narrowly as possible until they are overturned. We look forward to assisting the State of Illinois in any way we can in defending its assault weapons and large capacity magazine ban in the short term; and we will continue to work toward the eventual adoption of far more definitive gun control legislation at both the state and federal levels in the long term.

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<sup>1</sup> See for example, Christopher S. Koper and Jeffrey A. Roth, "The Impact of the 1994 Federal Assault Weapon Ban on Gun Violence Outcomes: An Assessment of Multiple Outcome Measures and Some Lessons for Policy Evaluation," *Journal of Quantitative Criminology* 17, no. 1 (2001): 33–74. The report concluded that the federal assault weapons ban "targets a relatively small number of weapons based on features that have little to do with the weapons' operation, and removing those features is sufficient to make the weapons legal."

<sup>2</sup> Josh Sugarmann, *Every Handgun Is Aimed at You: The Case for Banning Handguns* (New Press, 2001).

<sup>3</sup> Michael J. North, "Gun Control in Great Britain after the Dunblane Shootings," in *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis* (Baltimore: The Johns Hopkins University Press, 2013), 185–93.

<sup>4</sup> Philip Alpers, "The Big Melt: How One Democracy Changed after Scrapping a Third of Its Firearms," in *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis* (Baltimore: The Johns Hopkins University Press, 2013), 205–11; Rebecca Peters, "Rational Firearm Regulation: Evidence-Based Gun Laws in Australia," in *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis* (Baltimore: The Johns Hopkins University Press, 2013), 195–204.

<sup>5</sup> "2019 Firearm Law Changes (Arms Amendment Bill 2)," New Zealand Police, accessed August 27, 2020, <https://www.police.govt.nz/advice-services/firearms-and-safety/2019-firearm-law-changes-arms-amendment-bill-2>; Josh Hafner, "Gun Control Bill in New Zealand Passes in Early Vote Following Attacks," USA Today, April 2, 2019, <https://www.usatoday.com/story/news/world/2019/04/02/gun-control-bill-new-zealand-vote-parliament-mosque-attacks/3341240002/>.

<sup>6</sup> North, "Gun Control in Great Britain after the Dunblane Shootings."

<sup>7</sup> "GVR" is an acronym for **G**rand writ of *certiorari*, **V**acate the prior decision, and **R**emand for further consideration.

<sup>8</sup> *Bianchi v. Frosh*, 142 S. Ct. 2898 (Supreme Court 2022).

<sup>9</sup> *Duncan v. Bonta*, 142 S. Ct. 2895 (Supreme Court 2022).

<sup>10</sup> *Association of New Jersey Rifle & Pistol Clubs, Inc. v. Bruck*, 142 S. Ct. 2894 (Supreme Court 2022).

<sup>11</sup> *New York State Rifle and Pistol Association, Inc. et al v. Bruen, et al*, 142 S. Ct. 2111 (Supreme Court 2022).

<sup>12</sup> *District of Columbia v. Heller*, 554 US (Supreme Court 2008).

<sup>13</sup> *United States v. Cruikshank*, 92 US 542 (Supreme Court 1876); *Presser v. Illinois*, 116 US (Supreme Court 1886); *U.S. v. Miller*, 307 U.S. 174 (1939) (n.d.); *Lewis v. United States*, No. 55 (U.S. 1980).

<sup>14</sup> *McDonald v. City of Chicago*, No. 3020 (SCt 2010).

<sup>15</sup> Warren Burger, PBS News Hour, December 16, 1991, c.