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ENDORSED FILED
SUPERIOR COURT

SEP 12 2023

COWLITZ COUNTY
STACI MYKLEBUST, Clerk

STATE OF WASHINGTON
COWLITZ COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

GATOR'S CUSTOM GUNS, INC., a
Washington for-profit corporation;
WALTER L. WENTZ, an individual,

Defendants.

NO. 23 2 00897 08

COMPLAINT FOR INJUNCTIVE AND
OTHER RELIEF UNDER THE
WASHINGTON CONSUMER
PROTECTION ACT

Plaintiff State of Washington, by and through the Attorney General, brings this action against Defendants Gator's Custom Guns, Inc., and its owner Walter (a/k/a "Wally") Wentz. The State alleges that Defendants, collectively "Gator's," engaged in unfair and deceptive acts or practices and unfair methods of competition in violation of the Consumer Protection Act, RCW 19.86, and RCW 9.41.375. The State alleges the following on information and belief.

I. INTRODUCTION

1.1 This lawsuit arises from Gator's brazen, defiant, and egregious violation of laws designed to safeguard our communities from gun violence.

1.2 In March 2022, with the passage of SB 5078, the Washington State Legislature banned the distribution, sale, importation, and manufacture of large capacity firearm magazines

COMPLAINT FOR INJUNCTIVE
AND OTHER RELIEF - 1

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1 (LCMs), effective July 1, 2022. RCW 9.41.370 and .375. LCMs are ammunition-feeding devices
2 with the capacity to accept more than ten rounds of ammunition. RCW 9.41.010(25).

3 1.3 The threat posed by LCMs is not merely theoretical. Since 1980, LCMs have been
4 involved in at least 85 mass shootings nationwide, resulting in 791 fatalities and more than 1,100
5 injuries. Unfortunately, mass shootings continue, as does the use of weapons equipped with
6 LCMs to reign terror upon our communities, including three this year alone – Monterey Park,
7 Nashville, and Allen. Washington State is no stranger to these terrible events, as evidenced by
8 mass shootings in recent years in Mukilteo and Burlington.

9 1.4 As recognized by the Legislature, banning the sale and distribution of LCMs
10 saves lives.¹

11 1.5 To ensure compliance with RCW 9.41.370 and 9.41.375, in August 2022, the
12 Attorney General conducted an initial sweep of brick-and-mortar gun stores across Washington.
13 As part of the sweep, investigators working on behalf of the Attorney General attempted to buy
14 LCMs in 25 retail stores throughout the state.

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19 ¹ For example, a 2020 study published in *Criminology and Public Policy* by a team headed by Daniel W.
20 Webster of the Johns Hopkins University Bloomberg School of Public Health found that “[LCM] bans were
21 associated with significant reductions in the incidence of fatal mass shootings.”
22 See <https://onlinelibrary.wiley.com/doi/full/10.1111/1745-9133.12487> (last accessed Sept. 8, 2023).

23 A study published by the American Journal of Public Health in 2019 concluded that LCM bans save lives.
24 The study found that “Attacks involving LCMs resulted in a 62% higher mean average death toll. The incidence of
25 high-fatality mass shootings in non-LCM ban states was more than double the rate in LCM ban states; the annual
26 number of deaths was more than 3 times higher.” See <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2019.305311> (last accessed Sept. 8, 2023).

Another 2020 study found that “large-capacity magazine bans were associated with 38% fewer fatalities
and 77% fewer nonfatal injuries when a mass shooting occurred.” See <https://psycnet.apa.org/record/2020-78672-001>
(last accessed Sept. 8, 2023). The primary author of that study, Michael Siegel, a community health science
professor at Boston University, told CNN that whether a state allows large-capacity magazine sales is the single
best predictor of the mass shooting rates in that state. See <https://www.cnn.com/2017/10/05/politics/gun-laws-magazines-las-vegas/index.html>
(last accessed Sept. 8, 2023).

1 1.6 The vast majority of these gun stores complied with the law, and only two sold
2 or offered to sell LCMs to the investigator. The Attorney General’s enforcement actions against
3 these two stores garnered significant media coverage.²

4 1.7 Between March 2023 and May 2023, the Attorney General’s office conducted a
5 second sweep of nearly 90 additional brick-and-mortar stores located in northwest, southwest,
6 central, and eastern Washington. As with the initial sweep, the vast majority of gun stores appeared
7 to comply with the prohibition on LCM sales.

8 1.8 When investigators stopped at Gator’s, however, they observed that the business
9 openly displayed hundreds of LCMs for public sale in their retail store. Indeed, Gator’s retail
10 display of LCMs was the largest yet observed by state investigators, despite the LCM law’s
11 passage approximately a year prior and extensive press coverage of the Attorney General’s other
12 enforcement actions.

13 1.9 On two separate occasions between May 3, 2023, and May 5, 2023, Gator’s sold
14 prohibited LCMs over the counter to state investigators, including magazines with the capacity to
15 hold 40 rounds, compatible with both handguns and long guns like the AR-15. Gator’s owner
16 Wentz himself transacted the second sale.

17 1.10 Gator’s egregious violation of the LCM ban did not stop at sales and offers for
18 sale. Through subpoenas and civil investigative demands, the State has learned that since July
19 2022 (when LCM sales and distributions became illegal in Washington), Gator’s has remained
20 a significant and persistent purchaser of LCMs for public resale. As of the date of this filing, the
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22 ² Two gun stores were discovered to have violated the law prohibiting LCM sales. The first store, WGS
23 Guns in Lakewood, WA, resolved their matter by way of entry of an Assurance of Discontinuance in December
24 2022. See <https://www.atg.wa.gov/news/news-releases/lakewood-gun-retailer-pay-penalties-ferguson-s-second-high-capacity-magazine> (last accessed August 28, 2023).

25 The second store, Federal Way Discount Guns (FWDG) in Federal Way, WA, was sued by the Attorney
26 General in King County Superior Court in December 2022 under cause number 22-2-20064-2 SEA. In April
2023, the King County Superior Court found FWDG and its owner, Mohammed Baghai, liable for their sales of
LCMs to Washington consumers. See <https://www.seattletimes.com/seattle-news/law-justice/federal-way-gun-shop-faces-steep-fine-for-selling-banned-high-capacity-magazines/> (last accessed August 28, 2023).

1 State has confirmed that Gator’s purchased and caused to be delivered into Washington at least
2 11,408 LCMs since the prohibition took effect.

3 1.11 The State respectfully requests the Court permanently restrain and enjoin
4 Defendants from distributing, selling, or offering for sale any LCM to Washington consumers,
5 and from causing LCMs to be delivered into Washington. The State also seeks penalties,
6 disgorgement, restitution, and other remedies pursuant to the Consumer Protection Act.

7 **II. PARTIES**

8 2.1 Plaintiff is the State of Washington. The Attorney General is authorized to
9 commence this action pursuant to RCW 19.86.080, RCW 19.86.140, and RCW 9.41.375.

10 2.2 Defendant Gator’s Custom Guns is a Washington for-profit corporation with its
11 principal place of business located at 109 Allen Street, Kelso, WA, 98626. Gator’s registered with
12 the Washington Secretary of State on October 13, 2010. Gator’s sells firearms, ammunition, and
13 firearm accessories from its storefront in Kelso.

14 2.3 Defendant Walter L. Wentz (“Wentz”) is an individual currently residing in Castle
15 Rock, WA. Wentz is the registered agent and the sole governor of Gator’s and exercises control
16 over the company’s functions.

17 **III. JURISDICTION AND VENUE**

18 3.1 The Court has jurisdiction over these proceedings under the provisions of the
19 Consumer Protection Act, RCW 19.86 and RCW 9.41.375.

20 3.2 The conduct set forth in this Complaint occurred in Cowlitz County.

21 3.3 Venue is proper in Cowlitz County pursuant to RCW 4.12.020 and 4.12.025, and
22 Court Rule 82 because Defendants are located in and transact business in Cowlitz County.

23 3.4 The Attorney General is authorized to commence this action pursuant to
24 RCW 19.86.080 and RCW 19.86.140.

1 in this state, online or otherwise. ‘Distribute’ also includes causing a firearm or large capacity
2 magazine to be delivered in this state.” RCW 9.41.010(11).

3 5.6 Import and importing means “to move, transport, or receive an item from a place
4 outside the territorial limits of the state of Washington to a place inside the territorial limits of the
5 state of Washington.” RCW 9.41.010(23).

6 **Defendants Are Selling, Offering for Sale, and Distributing LCMs in Washington**

7 5.7 Defendants operate a firearm and ammunition retail store in Kelso, WA. They have
8 been in business for nearly 13 years. Among the items they offer for public sale are handguns, long
9 guns, ammunition, and firearm accessories (e.g., slings, holsters, magazines, and scopes).

10 5.8 Defendant Wentz is Gator’s sole governor and its registered agent, exercises control
11 over the company, and occasionally acts as a sales representative in Gator’s retail store. As set forth
12 in greater detail below, Defendant Wentz personally sold LCMs to a state investigator on May 5,
13 2023.

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1 5.9 On May 3, 2023, a state investigator entered Gator’s retail store in Kelso and
2 observed hundreds of LCMs displayed for sale in several large barrels and boxes. The sales
3 representative sold the investigator three LCMs—one Glock 33-round magazine, one Magpul 27-
4 round magazine, and one Magpul 40-round magazine — for \$85.37, for which the investigator paid
5 cash.

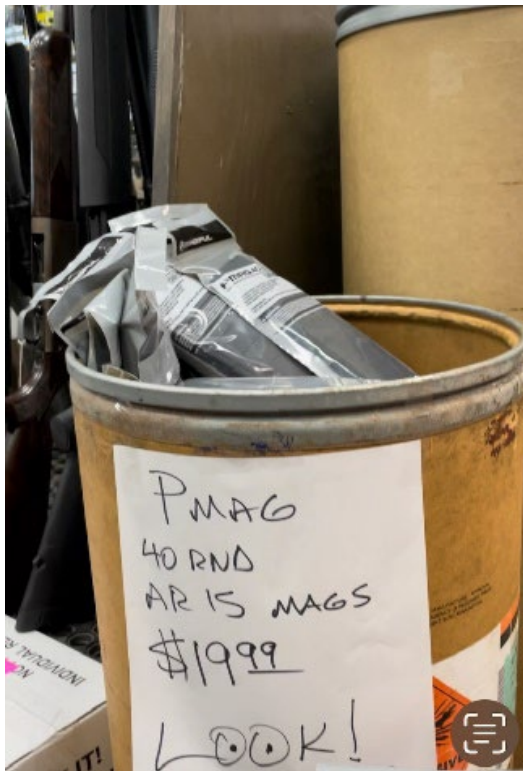


18 (Gator’s storefront, LCMs purchased, and receipt, taken May 3, 2023.)

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1 5.10 On May 5, 2023, a state investigator again entered Gator’s retail store and observed
2 hundreds of LCMs still displayed for sale in several large barrels and boxes. Defendant Wentz was
3 personally operating the sales register on May 5, 2023. The investigator identified Mr. Wentz based
4 on Wentz’s interactions with staff and customers and a recent news article featuring a photograph
5 of Wentz.³

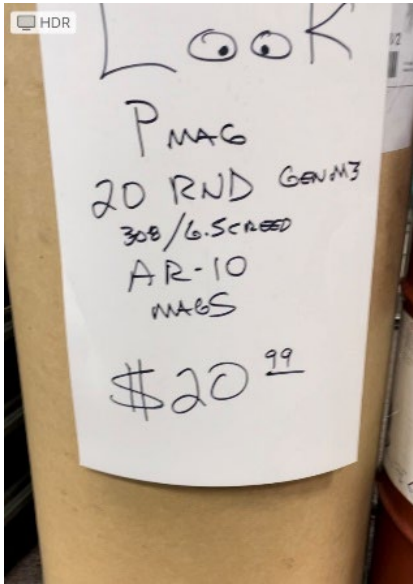
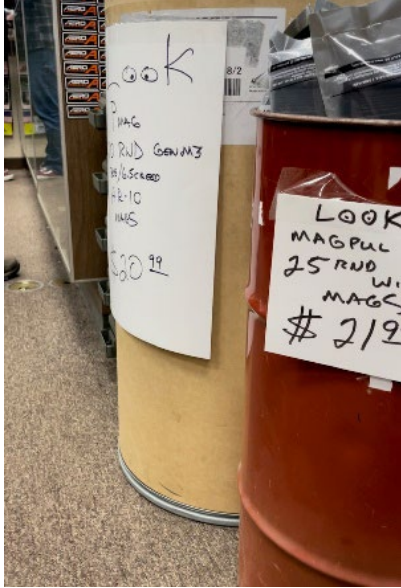
6 5.11 The investigator selected two LCMs for purchase. Defendant Wentz sold the
7 investigator the two LCMs—two Magpul 40-round magazines—for \$43.22, for which the
8 investigator paid cash.

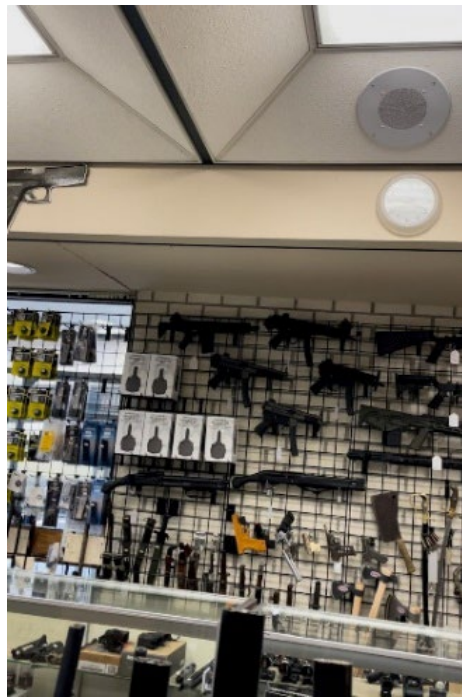


(LCMs on display in Gator’s, and LCMs purchased and receipt, taken May 5, 2023)

³ See https://www.lmtribune.com/northwest/what-defines-an-essential-business/article_1bba0c78-6aac-556c-958b-4d7734446f31.html (last accessed September 7, 2023).

1 5.12 During both visits in May 2023, the state investigator observed barrels and boxes of
2 LCMs in Defendants' retail store advertised for public sale. The barrels and boxes occupied a
3 significant portion of Defendants' retail space.





(GCG retail store, barrels and boxes of LCMs, and 50-round drum magazines compatible with pistols, taken on May 5, 2023.)

5.13 The State has obtained records from numerous firearm distributors establishing that Defendants have purchased and caused to be delivered into Washington at least 11,408 LCMs since July 1, 2022.

VI. FIRST CAUSE OF ACTION

(Per Se Violation of Consumer Protection Act)

6.1 Plaintiff re-alleges all previous factual statements and allegations as if set fully herein.

6.2 Under RCW 9.41.375, distributing, selling, or offering for sale an LCM in Washington is an unfair or deceptive act or practice, or an unfair method of competition, in the conduct of trade or commerce for purposes of the Consumer Protection Act, ch. 19.86 RCW.

6.3 Defendants distributed, sold, and/or offered for sale multiple LCMs in Washington, in violation of RCW 9.41.375.

1 **VII. SECOND CAUSE OF ACTION**

2 **(Unfair Acts in Violation of the Consumer Protection Act, RCW 19.86.020)**

3 7.1 Plaintiff re-alleges all previous factual statements and allegations as if set fully
4 herein.

5 7.2 Defendants’ distribution, sale, and/or offer for sale of LCMs in Washington
6 constitutes an unfair or deceptive act or practice under RCW 19.86.020.

7 7.3 Defendants’ distribution, sale, and/or offer for sale of LCMs in Washington
8 constitutes an unfair method of competition under RCW 19.86.020.

9 7.4 Defendants engaged in “trade” or “commerce” within the meaning of the
10 Consumer Protection Act, RCW 19.86.010(2), by advertising, marketing, selling, and soliciting
11 business from Washington consumers at their brick-and-mortar retail store and via their Facebook
12 profile, which has over 2,600 followers.⁴

13 7.5 Defendant Wentz personally participated in and/or, with knowledge, approved of
14 Defendant GCG’s distribution, sale, and/or offer to sell LCMs in violation of RCW 19.86.020.

15 7.6 Defendants’ unlawful distribution, sales, and/or offers to sell LCMs in violation of
16 RCW 19.86.020 have impacted the public interest.

17 7.7 On information or belief, Defendants’ unlawful acts will continue unless
18 enjoined.

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26 ⁴ See <https://www.facebook.com/GatorsCustomGuns>

1 **VIII. PRAYER FOR RELIEF**

2 Wherefore, the State prays for the following relief:

3 8.1 That the Court adjudges and decrees that Defendants have engaged in the conduct
4 complained of herein.

5 8.2 That the Court adjudges and decrees that the conduct complained of violates
6 RCW 9.41.375, which is a *per se* violation of the Consumer Protection Act, ch. 19.86 RCW.

7 8.3 That the Court adjudges and decrees that the conduct complained of constitutes
8 unfair or deceptive acts or practices in violation of the Consumer Protection Act, ch. 19.86 RCW.

9 8.4 That the Court adjudges and decrees that the conduct complained of constitutes
10 unfair methods of competition in violation of the Consumer Protection Act, ch. 19.86 RCW.

11 8.5 That the Court issue a permanent injunction pursuant to the Consumer Protection
12 Act, RCW 19.86.080, enjoining and restraining Defendants and their representatives, successors,
13 assigns, offices, agents, servants, employees, and all other persons acting or claiming to act for,
14 on behalf of, or in concert or participation with Defendants, from continuing or resuming the
15 unlawful conduct complained of herein.

16 8.6 That the Court assess civil penalties of up to the statutory maximum under
17 RCW 19.86.140 against Defendants for each and every violation of RCW 19.86.020 caused by
18 the conduct complained of herein.

19 8.7 That the Court, as an equitable remedy, order the destruction or return of all LCMs
20 currently in Defendants' possession.

21 8.8 That the Court, as an equitable remedy, disgorge Defendants of money or property
22 acquired by Defendants as a result of the conduct and violations complained of herein, and order
23 restitution under RCW 19.86.080.

24 8.9 That the Court make such orders pursuant to RCW 19.86.080 to provide that the
25 Plaintiff, State of Washington, have and recover from Defendants the costs of this action,
26 including reasonable attorneys' fees.

1 8.10 For such other relief as the Court may deem just and proper.
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3 DATED this 11th day of September, 2023.

4 ROBERT W. FERGUSON
5 Attorney General

6
7 *s/ Ben Carr*

8 BEN CARR, WSBA #40778
9 JOHN NELSON, WSBA #45724
10 BOB HYDE, WSBA #33593
11 Assistant Attorneys General
12 Attorneys for Plaintiff State of Washington
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1 **CERTIFICATE OF SERVICE**

2 I certify that I caused a copy of the foregoing to be served on the following party via
3 the following method:

<p>4 Counsel For Defendants:</p> <p>5 S. PETER SERRANO, WSBA #54769</p> <p>6 AUSTIN HATCHER, WSBA #57449</p> <p>7 Silent Majority Foundation</p> <p>8 5238 Outlet Dr.</p> <p>9 Pasco, WA 99301</p> <p>10 pete@silentmajorityfoundation.org</p> <p>11 austin@smfjb.org</p>	<p>12 <input type="checkbox"/> Legal Messenger</p> <p>13 <input type="checkbox"/> First-Class Mail, Postage Prepaid</p> <p>14 <input checked="" type="checkbox"/> Certified Mail, Receipt Requested</p> <p>15 <input type="checkbox"/> Court E-Service</p> <p>16 <input checked="" type="checkbox"/> Email</p>
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17 I certify, under penalty of perjury under the laws of the State of Washington, that the
18 foregoing is true and correct.

19 DATED this 11th day of September, 2023, at Seattle, Washington.

20 *s/Ben Carr*

21 _____
22 BEN CARR, WSBA #40778
23 Assistant Attorney General