

The Virgin Islands Consortium

U.S. DOJ Seeks to Block Magazine and Firearm Limits in New Virgin Islands Gun Law, Calling Provisions Unconstitutional

Federal prosecutors now seek to block Act 9113 provisions banning magazines holding more than 15 rounds and firearms designed for them, while the GVI argues the new law moots the lawsuit and fully aligns territorial licensing with Supreme Court rulings.

Federal / **Published On July 25, 2026 07:56 AM /**

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Federal prosecutors are asking the District Court to block enforcement of two provisions in the territory's recently enacted gun law, arguing that restrictions on magazines holding more than 15 rounds and firearms designed to accommodate them are unconstitutional.

The request for a preliminary injunction marks the latest development in the U.S. Department of Justice's ongoing lawsuit against the Government of the Virgin Islands and the V.I. Police Department. The federal government maintains that Act 9113, despite being presented as a comprehensive reform of the territory's firearm-licensing system, preserves restrictions that violate the Second Amendment.

The Government of the Virgin Islands has asked the court to reject the injunction request and dismiss the broader lawsuit, contending that Act 9113 brought local law into compliance with recent Supreme Court decisions and rendered the federal government's original complaints moot.

Federal attorneys responded by calling the local government's arguments "frivolous" and "sanctionable."

The competing filings are now before Judge Evan Rikhye.

Act 9113 began in the 36th Legislature as Bill 36-0144, sponsored by Senator Clifford Joseph. The measure was intended to comprehensively revise firearm licensing and registration requirements in the Virgin Islands.

"This is a common-sense measure which protects the rights of law-abiding residents to bear arms while placing rational parameters on weapons in our community," said Governor Bryan after signing the measure into law.

Government House said at the time that the previous statutes were overly burdensome and vulnerable to being invalidated in federal court.

The measure nevertheless became law over strong objections from local gun-rights advocates and against the advice of at least one United States senator, who argued that the revised framework still contained significant legal problems.

Federal prosecutors are now seeking to prevent the territory from enforcing two portions of Act 9113 dealing with firearm and magazine capacity.

Their motion relies in part on a Third Circuit Court of Appeals ruling issued earlier this month that found a ban on "so-called large capacity magazines" unconstitutional.

In light of that decision, federal attorneys argue that Act 9113's prohibition on the "possession, receipt, purchase, sale, import, or transfer of magazines that can hold more than 15 rounds" cannot withstand constitutional review.

They contend that the restriction also operates as an effective prohibition on "standard-capacity AR-15 rifles," which are typically sold with magazines capable of holding 20 or 30 rounds.

The federal government is also challenging the law's prohibition on selling or transferring firearms "manufactured to hold" more than 15 rounds.

Both provisions should be halted, the motion argues, while "the VIPD enforces the glaringly unconstitutional provisions of Act 9113."

DOJ attorneys argue that the legal requirements for a preliminary injunction have been satisfied because the federal government is likely to prevail and continued enforcement would cause irreparable harm to Virgin Islands residents.

Act 9113 “grandfathers in” firearms with capacities exceeding the new limit when those weapons were legally owned before the legislation took effect.

Federal prosecutors say the law contains no comparable protection for magazines that were lawfully possessed before its enactment.

“Therefore, anyone who currently owns a banned magazine is faced with the Hobson’s choice of destroying his constitutionally protected arm or keeping it and risking arrest and incarceration,” the motion for preliminary injunction argues. “This constitutes irreparable injury.”

The federal government is asking the court to prevent enforcement while litigation over the new law continues.

GVI Says New Law Makes Federal Case Moot

The Government of the Virgin Islands asked the court to dismiss the preliminary-injunction request, describing the arguments supporting it as “immaterial and irrelevant to the issues” expected to appear in a forthcoming amended federal complaint.

Federal prosecutors are expected to revise their complaint in response to the passage of Act 9113.

The local government also argued that the entire lawsuit should be dismissed under the Federal Rules of Criminal Procedure because the revised law “brings the Territory’s firearms licensing laws into conformity with recent Supreme Court decisions in every respect.”

According to V.I. Department of Justice attorneys, Act 9113 corrected the deficiencies at the center of the original federal complaint. They therefore contend that no active controversy remains for the court to decide and have asked that the lawsuit be dismissed with prejudice.

Federal Attorneys Call GVI Arguments "Frivolous"

Federal prosecutors issued a sharply worded response to the territory’s attempt to dismiss the injunction motion.

They characterized the GVI’s arguments as “frivolous” and “sanctionable.”

According to DOJ attorneys, local government lawyers failed to “perform basic research regarding the applicability” of the procedural rules cited in their filing.

The federal government also rejects the assertion that Act 9113 resolved the constitutional concerns surrounding the territory’s firearm laws.

Rather than bringing the territory into compliance, prosecutors contend that the new law continues Virgin Islands officials’ “pattern or practice of law enforcement misconduct.”

They argue that the preliminary injunction should be granted and that the territory's opposition fails "both procedurally and substantively."

Judge Rikhye must now determine whether enforcement of the two challenged provisions will be halted while the broader litigation proceeds.

The continued federal challenge also makes clear that passage of Act 9113 did not resolve the Justice Department's opposition to the territory's firearm-licensing framework.