

**FILED**

**MAY 16 2013**

Superior Court  
Linda Myhre Enlow  
Thurston County Clerk

EXPEDITE  
 No hearing set  
 Hearing is set  
Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Judge: \_\_\_\_\_

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF THURSTON

In Re:  
BALLOT TITLE AND SUMMARY FOR  
INITIATIVE NO. 1639  
  
On behalf of PAUL KRAMER, an  
individual, and SAFE SCHOOLS SAFE  
COMMUNITIES, a Washington political  
committee

No. 18-2-02551-34  
  
PETITION TO APPEAL BALLOT  
TITLE AND SUMMARY FOR  
INITIATIVE NO. 1639

Pursuant to RCW 29A.72.080, Petitioners appeal the ballot title and summary formulated by the Attorney General for Initiative Measure No. 1639 (“I-1639”) and respectfully petition this Court to review and amend the same.<sup>1</sup> Specifically, Petitioners propose that the ballot title’s concise description be revised to (1) clarify that I-1639’s new age restrictions apply only to semiautomatic assault rifles and not to all firearms, and (2) more accurately, understandably, and impartially describe to voters the measure’s secure gun storage requirements. The ballot summary should also be revised to address these same concerns, as well as to more accurately describe I-1639’s requirements regarding training, warnings, and fees.

The revisions proposed by Petitioners, which are outlined below and in the proposed order filed concurrently with this Petition, ensure that voters are provided with an accurate and

<sup>1</sup> Petitioners do not challenge the Attorney General’s statement of subject.

1 impartial description of the essential contents of the measure on which they can base their vote or  
2 decide to investigate the measure further. Petitioners intend this Petition to serve as their  
3 opening brief under LCR 5(d)(1)(G).

### 4 **I. PARTIES**

5 Petitioners are Paul Kramer and Safe Schools Safe Communities. Mr. Kramer is a  
6 Washington state citizen and the sponsor of I-1639. Safe Schools Safe Communities is  
7 registered with the State of Washington as the campaign committee in support of I-1639.

8 Pursuant to RCW 29A.72.080 and LCR 40(b)(2)(A)(ii), a copy of this Petition and  
9 accompanying Notice of Appeal are being served upon the Washington State Attorney General  
10 and the Secretary of State.

### 11 **II. JURISDICTION AND VENUE**

12 This Court has jurisdiction over this action pursuant to RCW 29A.72.080 because  
13 Petitioners are filing this Petition within the statutory 5-day time period from the filing of the  
14 measure's proposed ballot title with the Secretary of State (not including weekends and  
15 holidays). This Court also has jurisdiction pursuant to Article IV, Sections 4 and 6 of the  
16 Washington State Constitution, Title 29A RCW, and Title 7 RCW. Venue for this action lies in  
17 this Thurston County Superior Court pursuant to RCW 29A.72.080 and RCW 4.92.010.

### 18 **III. FACTUAL BACKGROUND AND DESCRIPTION OF MEASURE**

19 It is widely known that shootings involving the use of semiautomatic assault rifles have  
20 resulted in hundreds of deaths and injuries, as well as traumatic impacts on victims, their  
21 families, and surrounding communities. It is also well known that firearms taken from the home  
22 account for a large percentage of the firearms used in school shootings, youth suicide attempts,  
23 and unintentional injuries to young people.  
24  
25  
26  
27

1 I-1639 is intended to approach these issues head-on. Petitioner Paul Kramer filed I-1639  
2 with the Secretary of State on May 2, 2018. A copy of I-1639 is attached as Exhibit A to this  
3 Petition. The primary goal of I-1639 is to increase public safety and reduce the negative impacts  
4 of gun violence on individuals and communities. As discussed in further detail below, the  
5 measure proposes to accomplish this goal by (1) creating an enhanced background check system  
6 applicable to semiautomatic assault rifles similar to what currently is required for handguns, (2)  
7 requiring that individuals complete a firearm safety training course and be at least 21 years of  
8 age to purchase semiautomatic assault rifles, (3) enacting a waiting period for the purchase of  
9 semiautomatic assault rifles, (4) establishing standards related to the use of secure gun storage,  
10 trigger locks or similar devices designed to prevent unauthorized use or discharge (for purposes  
11 of this Petition, “secure gun storage/devices”), and requiring firearms dealers to offer purchasers  
12 secure gun storage/devices, (5) requiring specific safety warnings at the point of firearm  
13 purchase, and (6) directing state and local agencies to develop a process to ensure that purchasers  
14 of certain firearms remain eligible to possess such firearms.

17 First, I-1639 subjects semiautomatic assault rifle purchases to the same local law  
18 enforcement background check, recordkeeping, and investigative hold requirements currently in  
19 place for handgun purchases. *See generally* Ex. A, § 3. The measure further provides that, in the  
20 event the state enacts a statewide firearms background check system equivalent to or more  
21 comprehensive than the existing local law enforcement background check system, both handgun  
22 and semiautomatic assault rifle purchases will be subject to the statewide firearms background  
23 check system. *Id.*, § 3(3)(a)-(b). To offset the administrative costs of implementing these new  
24 requirements as they pertain to semiautomatic assault rifles, I-1639 provides that the Department  
25 of Licensing may require dealers to collect a fee from each semiautomatic assault rifle purchaser  
26  
27

1 or transferee. *Id.*, § 3(7)(a). The measure requires that the fee be no more than is necessary to  
2 fund the state, the Health Care Authority and health care institutions, and local law enforcement  
3 agencies for the state-mandated costs of implementing these new requirements as they pertain to  
4 semiautomatic assault rifles. *Id.*, § 3(7)(b).

5  
6 Second, I-1639 enacts age-based restrictions and safety training requirements with  
7 respect to the purchase and possession of semiautomatic assault rifles. The measure requires that  
8 purchasers of semiautomatic assault rifles be at least 21 years of age and provide proof of  
9 completion of a recognized firearm safety training program within the last five years that  
10 includes instruction on basic safety and secure gun storage, safe handling, and an overview of  
11 state and federal firearms laws. *See Ex. A*, §§ 3(2)(a), 3(6)(a)(vi), 13(1). The measure also  
12 restricts the possession of semiautomatic assault rifles by persons 18 to 20 years of age to certain  
13 limited circumstances and locations. *Id.*, § 13(3).

14  
15 Third, I-1639 establishes a 10-day waiting period for the delivery of a semiautomatic  
16 assault rifle by a dealer to a purchaser or transferee. *Id.*, § 4(2). The 10-day period is measured  
17 from the date of the purchase application or, in the case of a transfer, the date a background  
18 check is initiated. *Id.*

19  
20 Fourth, I-1639 contains requirements related to secure gun storage/devices. A gun owner  
21 who does not keep his or her firearm in secure gun storage or outfitted with a device that  
22 prevents unauthorized use and discharge may be subject to criminal liability if (1) the firearm is  
23 left in a place where the owner reasonably should know a prohibited person (a person who may  
24 not own or possess a firearm under state or federal law, such as a convicted felon or minor) could  
25 access it, (2) a prohibited person does in fact gain access to the firearm, and (3) the prohibited  
26 person (a) causes personal injury or death with the firearm, (2) causes the firearm to discharge,  
27

1 (c) displays the firearm in a public place in a manner manifesting intent to intimidate or that  
2 warrants alarm for the safety of others, or (d) uses the firearm in the commission of a crime. *See*  
3 Ex. A, § 5(1)-(3). The measure also requires that dealers offer to sell or give secure gun  
4 storage/devices that prevent unauthorized use and discharge to firearm purchasers or transferees  
5 at the point of sale or transfer. *Id.*, § 6(1).  
6

7 Fifth, I-1639 requires that certain safety warnings be given to firearm purchasers and  
8 transferees. The measure requires that dealers notify purchasers or transferees of firearms at the  
9 point of purchase or transfer that they may face prosecution if they store or leave unsecured  
10 firearms where a prohibited person can and does obtain possession. *See* Ex. A, § 6(2)-(3). The  
11 measure further requires that purchasers of handguns and semiautomatic assault rifles be notified  
12 at the time they apply for the purchase that the presence of a firearm in the home increases the  
13 risk of death to self and others, including death by suicide, domestic violence, and unintentional  
14 death. *Id.* § 3(6)(b)(2).  
15

16 Finally, I-1639 requires that the Washington Department of Licensing and appropriate  
17 state and local law enforcement agencies work together to develop a process to ensure that  
18 purchasers of handguns and semiautomatic assault rifles remain eligible to possess a firearm  
19 under state and federal law. *Id.*, § 15(1)-(2). This process would involve (1) verification of  
20 continued eligibility to possess a firearm on at least an annual basis and (2) in the event a person  
21 is determined to be ineligible to possess a firearm, notification of relevant local law enforcement  
22 and action to ensure such person is not illegally in possession of firearms. *Id.*, § 15(1)(a)-(b).  
23

#### 24 **IV. ATTORNEY GENERAL'S BALLOT TITLE AND SUMMARY**

25 On May 9, 2018, the Attorney General returned a ballot title and summary for I-1639. A  
26 copy of the Attorney General's proposed ballot title and summary is attached as Exhibit B to this  
27

1 Petition. The Attorney General proposed the following ballot title and summary for I-1639:

2 **Ballot Title**

3 Initiative Measure No. 1639 concerns firearms.

4 This measure would require enhanced background checks, training, and waiting  
5 periods for sales or delivery of semiautomatic assault rifles; criminalize certain  
6 storage and unauthorized use; impose age limitations; and enact other firearm-  
7 safety requirements.

8 Should this measure be enacted into law? Yes [ ] No [ ]

9 **Ballot Measure Summary**

10 This measure would require enhanced background checks, firearm training, and  
11 waiting periods before semiautomatic assault rifles may be purchased or  
12 delivered. It would impose age limitations on who may purchase or possess  
13 certain firearms, including prohibiting firearm purchases by persons under age 21.  
14 It would require certain secured firearm storage or trigger-locks, and criminalize  
15 certain firearm storage if it results in unauthorized use. It would enact other  
16 firearm-related requirements, including certain warnings, recordkeeping, and fees.

17 **V. STATEMENT OF CLAIMS AND OBJECTIONS**

18 For any initiative to the people, the “ballot title” appearing on each ballot must present a  
19 “statement of subject,” not to exceed ten words, and a “concise description” of the initiative, not  
20 to exceed 30 words.<sup>2</sup> RCW 29A.72.050(1). The concise description must “be a true and  
21 impartial description of the measure’s essential contents” and “not, to the extent reasonably  
22 possible, create prejudice either for or against the measure.” *Id.* In addition, a “summary of the  
23 measure,” not to exceed 75 words, must be included along with the ballot title on all petitions for  
24 signature.<sup>3</sup> RCW 29A.72.090. The Supreme Court has noted the importance of an accurate  
25 ballot title: “often voters will not reach the text of a measure or the explanatory statement, but

26 <sup>2</sup> For the statement of subject, the words after “Initiative Measure No. \_\_\_ concerns...” are what count toward the 10-  
27 word limit. RCW 29A.72.050(2). For the concise description, the words after “This measure would...” are what  
count toward the 30-word limit. *Id.*

<sup>3</sup> In contrast to the ballot title statute cited above, the ballot summary statute does not explicitly exclude any words  
from the word count. Accordingly, it generally is accepted that the words “This measure would” count towards the  
75-word limit in the summary.

1 may instead cast their votes based upon the ballot title,” thus a ballot title must “give[] notice  
2 which would lead to an inquiry into the body of the act or indicates the scope and purpose of the  
3 law to an inquiring mind.” *Amalgamated Transit Union Local 587 v. State*, 142 Wn.2d 183, 217,  
4 11 P.3d 762 (2000). “However, the title need not be an index to the contents, nor must it provide  
5 details of the measure.” *Id.*

6  
7 The Attorney General is tasked with initially drafting any initiative’s ballot title and  
8 summary, subject to review and final resolution in this Court. *See* RCW 29A.72.060, .080. This  
9 Court has the responsibility to conduct a de novo review of the ballot title in light of the  
10 proposed measure and the Petitioners’ objections. RCW 29A.72.080. This Court’s task is to  
11 determine what formulation would convey most accurately, completely, and impartially the  
12 “subject matter” and “essential contents” of the measure. RCW 29A.72.050. Petitioners offer  
13 the following proposed improvements to assist the Court.  
14

15 **1. The Court Should Revise I-1639’s Concise Description to More Accurately and**  
16 **Completely Describe the Initiative to Voters.**

17 The Attorney General’s proposed ballot title for I-1639 should be improved to more  
18 completely, accurately, and impartially convey the essential contents of the measure.  
19 Specifically, the language regarding age restrictions and secure gun storage should be changed to  
20 offer voters more accurate information.

21 First, the concise description should clarify that I-1639’s age requirements apply only to  
22 the purchase or possession of semiautomatic assault rifles. As written, the term “impose age  
23 limitations” appears to suggest that the measure broadly establishes new age requirements for all  
24 firearms, which it does not. Under state and federal law, persons under age 21 are already  
25 prohibited from purchasing handguns. Specifically, federal law prohibits dealers from selling or  
26 delivering handguns to those under age 21, and state law requires all firearm sales and transfers  
27

1 in Washington to be conducted through licensed dealers. *See* 18 U.S.C. § 922(b)(1); RCW  
2 9.41.113.<sup>4</sup> Accordingly, persons under 21 cannot purchase handguns in Washington. State law  
3 also prohibits persons under age 21 from possessing handguns except under limited  
4 circumstances. RCW 9.41.240. The statement in I-1639 that a person under age 21 may not  
5 purchase a pistol in Washington is therefore a re-statement of current law, not a new substantive  
6 requirement of which voters would need to be informed in the ballot title. I-1639’s age  
7 requirements affect only potential purchasers or possessors of semiautomatic assault rifles. To  
8 ensure that the concise description is accurate and does not mislead voters, it should be revised to  
9 clarify which specific type of firearms—semiautomatic assault rifles—are covered by the  
10 measure’s new age requirements.  
11

12         Moreover, Petitioners’ proposed revisions describe the new age requirements as “age  
13 restrictions” rather than “age limitations.” The term “age restrictions” is more precise, accurate,  
14 and informative to voters given that I-1639 requires that semiautomatic assault rifle purchasers  
15 be at least 21 years of age and also imposes restrictions on possession of such weapons by  
16 persons 18 to 20 years of age. *See* Ex. A, § 13. Further, a “limit” implies a not-to-exceed  
17 number much like a speed limit. Here, I-1639 is not setting a maximum age to purchase  
18 semiautomatic assault rifles; rather, it is setting a minimum age. The word “restrictions”  
19 therefore is more accurate and reduces the potential for voter confusion.  
20  
21

22         Second, the terminology proposed by the Attorney General to describe I-1639’s secure  
23 gun storage provisions—“criminalize certain storage and unauthorized use”—is inaccurate,  
24 misleading, and potentially prejudicial. As an initial matter, the phrase “criminalize certain  
25 storage” is vague and uninformative to the public in that it does not indicate to voters what type  
26

---

27 <sup>4</sup> Moreover, state law prohibits dealers from delivering handguns to purchasers until the purchaser presents a valid  
concealed pistol license. RCW 9.41.090(1)(a). A person must be at least 21 years of age to receive a concealed  
pistol license in Washington. RCW 9.41.070(1)(c).



1 of storage is required. More critically, this wording inaccurately suggests to voters that I-1639  
2 imposes criminal liability for the mere act of storing firearms in a particular manner. To the  
3 contrary, I-1639 imposes criminal liability only if (1) the firearm is not kept in secure gun  
4 storage or secured with a device that prevents unauthorized use or discharge, (2) the owner  
5 leaves the firearm in a location where the owner knows, or reasonably should know, a prohibited  
6 person may gain access to the firearm, (3) a prohibited person does in fact obtain access to and  
7 possession of the firearm, and (4) the prohibited person uses the firearm in specific harmful or  
8 threatening ways. *See* Ex. A, § 5(1)(a)-(b). The Attorney Generals’ language is incorrect and  
9 suggests a much broader potential for criminal liability that may result in voter prejudice against  
10 the measure.  
11

12 Further, what is most informative to voters is what the law requires—i.e., what will  
13 change for gun owners under the proposed law. Here, I-1639 in essence requires gun owner’s  
14 use secure gun storage/devices as the failure to do so may result in criminal liability if certain  
15 unauthorized use occurs. Criminal liability is the enforcement mechanism for the requirement  
16 that secure gun storage/devices be used, not the primary requirement of the law. While the  
17 criminal liability aspect may be described in more detail in the ballot summary, given the word  
18 limit in the concise description it is more important for voters to be informed of the new secure  
19 gun storage/device requirement.  
20

21 Moreover, no provision in I-1639 “criminalize[s]...unauthorized use” of firearms.  
22 Again, the measure imposes criminal liability only if a gun owner’s failure to use secure gun  
23 storage/devices *results* in unauthorized access to and use of the firearm. Ex. A, § 5(1)(a)-(b).  
24 The ballot title should be changed to reflect this connection between failure to use secure  
25 storage/devices and resultant unauthorized use.  
26  
27

1 The phrase “criminalize certain storage and unauthorized use” in the Attorney General’s  
2 proposed ballot title is inaccurate, misleading, and potentially prejudicial in its entirety.

3 Petitioners’ proposed revision—“require secure gun storage that prevents unauthorized use”—  
4 accurately and impartially describes the essential contents of the measure and is more helpful  
5 because it conveys to voters what conduct is required under the measure.<sup>5</sup>  
6

7 Petitioners respectfully submit that the concise description for I-1639 should read as  
8 follows:

9 This measure would require enhanced background checks, training, age  
10 restrictions, and waiting periods for sales or delivery of semiautomatic assault  
11 rifles; require secure gun storage that prevents unauthorized use; and enact  
firearm-safety requirements.

12 For the Court’s reference, below is the Attorney General’s concise description for I-1639,  
13 marked to reflect the changes Petitioners propose:

14 This measure would require enhanced background checks, training, age  
15 restrictions, and waiting periods for sales or delivery of semiautomatic assault  
16 rifles; ~~criminalize certain~~ require secure gun storage and that prevents  
unauthorized use; ~~impose age limitations~~; and enact ~~other~~ firearm-safety  
17 requirements.

18 **2. The Court Should Revise I-1639’s Ballot Measure Summary to More Accurately  
and Completely Summarize the Initiative’s Scope and Purpose for Voters.**

19 The same problems found in the Attorney General’s concise description are also reflected  
20 in the Attorney General’s ballot measure summary. Petitioners propose additional revisions to  
21 ensure the summary is accurate, impartial, and complete, as required by the ballot title statute.  
22 Petitioners’ proposed revisions and additions to the ballot summary (1) clarify that I-1639’s age  
23 restrictions apply to the purchase or possession of semiautomatic assault rifles, (2) provide a  
24 more informative and helpful description of the measure’s secure gun storage provisions, and (3)  
25

26  
27 <sup>5</sup> At a minimum the word “certain” should be struck and replaced with “unsafe” or “unsecured.”

1 clarify the types of training, warnings, and fees set forth in the measure.

2 First, the Attorney General’s ballot measure summary inaccurately suggests that I-1639  
3 would impose age restrictions on the purchase or possession of a broader range of firearms than  
4 merely semiautomatic assault rifles. It also incorrectly suggests that I-1639 would prohibit all  
5 “firearm purchases by persons under age 21.” As discussed above, the measure’s effect is much  
6 more limited. Even if the age restriction as to pistols was new (which it is not, *see supra*, Section  
7 V.1), there are still rifles and other long guns that do not fall under I-1639’s definition of  
8 semiautomatic assault rifle and therefore would not be covered by the measure’s age restrictions.  
9 Petitioners’ proposed revisions clarify the scope of I-1639’s age provisions. Further, petitioners  
10 propose the term “age restrictions” rather than “age limitations” with respect to semiautomatic  
11 assault rifle possession for reasons similar to those discussed above. *See supra*, Section V.1.  
12

13  
14 Second, although the Attorney General’s summary correctly links liability for unsafe  
15 storage to unauthorized use resulting therefrom, the summary is inaccurate and potentially  
16 prejudicial where it states that I-1639 “would require certain secured firearm storage or trigger-  
17 locks.” But the measure specifically does not mandate use of particular secure gun  
18 storage/devices. The measure both (1) requires dealers to offer to sell or give firearm purchasers  
19 or transferees secure gun storage/devices at the point of sale or transfer and (2) provides that a  
20 gun owner’s failure to use secure gun storage/devices may result in criminal liability in defined  
21 circumstances. *See Ex. A*, §§ 5, 6(1). Petitioners’ proposed revisions clarify that distinction and  
22 result in a more informative and accurate summary. Petitioners further propose the use of the  
23 term “secure gun storage/devices” because that term encompasses both secure gun storage  
24 devices and trigger locks/similar devices as contemplated under I-1639, while allowing words  
25 for inclusion of other essential parts of the measure in the summary.  
26  
27

1 Finally, the Attorney General’s proposed summary should be revised to more accurately  
2 describe the types of training, warnings, and fees provided for in I-1639. Regarding training, the  
3 Attorney General’s use of the term “firearm training” inaccurately suggests that the required  
4 training will instruct trainees how to use firearms. Instead, I-1639 requires the completion of a  
5 “recognized firearm *safety* training program,” and each of the required elements of the program  
6 relates to safety and/or applicable state and federal firearms laws. Ex. A, § 3(2)(a) (emphasis  
7 added). Petitioners’ proposed term, “safety training,” more accurately describes the language  
8 and intent of I-1639 with respect to training requirements. Regarding warnings and fees, the  
9 Attorney General’s mere use of the terms “warnings” and “fees” is vague and not informative to  
10 the public. I-1639’s warnings address the increased risk of death due to firearms present in the  
11 home and the risk of prohibited persons obtaining possession of unsecured firearms. *See* Ex. A,  
12 §§ 3(6)(b)(i)-(2), 6(2)-(3). I-1639’s fee provision authorizes fees solely to “help offset the  
13 administrative costs” of implementing the measure’s new enhanced background check  
14 requirements for semiautomatic assault rifles. *See id.*, § 3(7)(a)-(b). Petitioners’ revised terms—  
15 “safety warnings” and “administrative fees”—clarify the scope and purpose of the required  
16 warnings and fees, and thus, are more accurate and informative to voters.  
17  
18

19 In sum, Petitioners’ proposed revisions ensure that the summary is accurate, impartial,  
20 and complete, as required by the ballot title statute. Petitioners respectfully submit that the  
21 summary for I-1639 should read as follows:  
22

23 This measure would require enhanced background checks, safety training, and  
24 waiting periods before semiautomatic assault rifles may be purchased or  
25 delivered. It would impose age restrictions on purchase and possession of  
26 semiautomatic assault rifles by persons under age 21. It would require use and  
27 sales of secure gun storage/devices and impose criminal liability for unsafe  
storage that results in unauthorized use. It would enact other firearm-related  
requirements, including safety warnings, recordkeeping, and administrative fees.

1 For the Court's reference, below is the Attorney General's ballot measure summary for I-1639,  
2 marked to reflect the changes Petitioners propose:

3 This measure would require enhanced background checks, ~~firearm~~ safety training,  
4 and waiting periods before semiautomatic assault rifles may be purchased or  
5 delivered. It would impose age ~~limitations~~ restrictions on ~~who may purchase or~~  
6 and possession of semiautomatic assault rifles ~~certain firearms, including~~  
7 ~~prohibiting firearm purchases~~ by persons under age 21. It would require ~~certain~~  
8 use and sales of secured firearm gun storage/devices ~~or trigger locks~~, and  
9 ~~criminalize certain firearm~~ impose criminal liability for unsafe storage if it that  
10 results in unauthorized use. It would enact other firearm-related requirements,  
11 including ~~certain~~ safety warnings, recordkeeping, and administrative fees.

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**VI. PRAYER FOR RELIEF**

WHEREFORE, having stated the above appeal and objections, Petitioners respectfully  
request that this Court examine the proposed ballot title and measure summary for Initiative No.  
1639 and grant the following relief:

- A. An Order amending the ballot title and summary to comply with the Washington  
ballot title statute's requirements as set forth above; and
- B. Such other and further relief as this Court deems just and equitable.

RESPECTFULLY SUBMITTED this 16<sup>th</sup> day of May, 2018.

PACIFICA LAW GROUP LLP

By: s/ Nicholas W. Brown  
Gregory J. Wong, WSBA No. 39329  
Nicholas W. Brown, WSBA No. 33586  
Sarah S. Washburn, WSBA No. 44418

Attorneys for Petitioners Paul Kramer and  
Safe Schools Safe Communities

# **EXHIBIT A**

# Initiative Measure No. 1639, filed May 2, 2018

AN ACT Relating to increasing public safety by implementing firearm safety measures, including requiring enhanced background checks, waiting periods, and increased age requirements for semiautomatic assault rifles and secure gun storage for all firearms; amending RCW 9.41.090, 9.41.092, 9.41.094, 9.41.097, 9.41.0975, 9.41.110, 9.41.113, 9.41.124, 9.41.240, 9.41.129, and 9.41.010; adding new sections to chapter 9.41 RCW; creating new sections; prescribing penalties; and providing effective dates.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** INTENT. Gun violence is far too common in Washington and the United States. In particular, shootings involving the use of semiautomatic assault rifles have resulted in hundreds of lives lost, devastating injuries, and lasting psychological impacts on survivors, their families, and communities. Semiautomatic assault rifles are specifically designed to kill quickly and efficiently and have been used in some of the country's deadliest mass shootings, including in Newtown, Connecticut; Las

Vegas, Nevada; and Parkland and Orlando, Florida, among others. Semiautomatic assault rifles have also been used in deadly shootings in Washington, including in Mukilteo and Tacoma.

The impacts of gun violence by assault weapons fall heavily on children and teenagers. According to one analysis, more than two hundred eight thousand students attending at least two hundred twelve schools have experienced a shooting on campus since the Columbine mass shooting in 1999. Active shooter drills are normal for a generation of American schoolchildren, instilling at a young age the sad and unnecessary realization that a mass shooting can happen in any community, in any school, at any time.

Enough is enough. The people find and declare that it is crucial and urgent to pass laws to increase public safety and reduce gun violence.

Implementing an enhanced background check system for semiautomatic assault rifles that is as strong as the one required to purchase a handgun and requiring safety training and a waiting period will help ensure that we keep these weapons out of dangerous hands. Further, federal law prohibits the sale of pistols to individuals under the age of twenty-one and at least a dozen states further restrict the ownership or possession of firearms by individuals under the age of twenty-one. This makes sense, as studies show that eighteen to twenty year olds commit a disproportionate number of firearm homicides in the United States and research indicates that the brain does not fully mature until a later age. Raising the minimum age to purchase semiautomatic assault rifles to twenty-one is a commonsense step the people wish to take to increase public safety.

Finally, firearms taken from the home by children or other persons prohibited from possessing firearms have been at the heart of several tragic gun violence incidents. One study shows that over eighty-five percent of school shooters obtained the firearm at their home or from a friend or relative. Another study found that more than seventy-five percent of firearms used in youth suicide attempts



and unintentional injuries were stored in the residence of the victim, a relative, or a friend. Secure gun storage requirements for all firearms will increase public safety by helping ensure that children and other prohibited persons do not inappropriately gain access to firearms, and notice requirements will make the potential dangers of firearms clear to purchasers.

Therefore, to increase public safety for all Washingtonians, in particular our children, this measure would, among other things: Create an enhanced background check system applicable to semiautomatic assault rifles similar to what is required for handguns, require that individuals complete a firearm safety training course and be at least twenty-one years of age to purchase or possess such weapons, enact a waiting period for the purchase of such weapons, and establish standards for the responsible storage of all firearms.

NEW SECTION. **Sec. 2.** SHORT TITLE. This act may be known and cited as the public safety and semiautomatic assault rifle act.

**Sec. 3.** ENHANCED BACKGROUND CHECKS. RCW 9.41.090 and 2018 c 201 s 6003 are each amended to read as follows:

(1) In addition to the other requirements of this chapter, no dealer may deliver a pistol to the purchaser thereof until:

(a) The purchaser produces a valid concealed pistol license and the dealer has recorded the purchaser's name, license number, and issuing agency, such record to be made in triplicate and processed as provided in subsection ~~((+5))~~ (6) of this section. For purposes of this subsection (1)(a), a "valid concealed pistol license" does not include a temporary emergency license, and does not include any license issued before July 1, 1996, unless the issuing agency conducted a records search for disqualifying crimes under RCW 9.41.070 at the time of issuance;

(b) The dealer is notified in writing by (i) the chief of police or the sheriff of the jurisdiction in which the purchaser resides

that the purchaser is eligible to possess a pistol under RCW 9.41.040 and that the application to purchase is approved by the chief of police or sheriff; or (ii) the state that the purchaser is eligible to possess a firearm under RCW 9.41.040, as provided in subsection (3)(b) of this section; or

(c) The requirements or time periods in RCW 9.41.092 have been satisfied.

(2) In addition to the other requirements of this chapter, no dealer may deliver a semiautomatic assault rifle to the purchaser thereof until:

(a) The purchaser provides proof that he or she has completed a recognized firearm safety training program within the last five years that, at a minimum, includes instruction on:

(i) Basic firearms safety rules;

(ii) Firearms and children, including secure gun storage and talking to children about gun safety;

(iii) Firearms and suicide prevention;

(iv) Secure gun storage to prevent unauthorized access and use;

(v) Safe handling of firearms; and

(vi) State and federal firearms laws, including prohibited firearms transfers.

The training must be sponsored by a federal, state, county, or municipal law enforcement agency, a college or university, a nationally recognized organization that customarily offers firearms training, or a firearms training school with instructors certified by a nationally recognized organization that customarily offers firearms training. The proof of training shall be in the form of a certification that states under the penalty of perjury the training included the minimum requirements; and

(b) The dealer is notified in writing by (i) the chief of police or the sheriff of the jurisdiction in which the purchaser resides that the purchaser is eligible to possess a firearm under RCW 9.41.040 and that the application to purchase is approved by the chief of police or sheriff; or (ii) the state that the purchaser is

eligible to possess a firearm under RCW 9.41.040, as provided in subsection (3)(b) of this section; or

(c) The requirements or time periods in RCW 9.41.092 have been satisfied.

(3)(a) Except as provided in (b) of this subsection, in determining whether the purchaser meets the requirements of RCW 9.41.040, the chief of police or sheriff, or the designee of either, shall check with the national crime information center, including the national instant criminal background check system, provided for by the Brady Handgun Violence Prevention Act (18 U.S.C. Sec. 921 et seq.), the Washington state patrol electronic database, the health care authority electronic database, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 to possess a firearm.

(b) The state, through the legislature or initiative process, may enact a statewide firearms background check system equivalent to, or more comprehensive than, the check required by (a) of this subsection to determine that a purchaser is eligible to possess a firearm under RCW 9.41.040. Once ((the)) a state system is established, a dealer shall use the state system and national instant criminal background check system, provided for by the Brady Handgun Violence Prevention Act (18 U.S.C. Sec. 921 et seq.), to make criminal background checks of applicants to purchase firearms. ((However, a chief of police or sheriff, or a designee of either, shall continue to check the health care authority's electronic database and with other agencies or resources as appropriate, to determine whether applicants are ineligible under RCW 9.41.040 to possess a firearm.))

~~+(3))~~ (4) In any case under this section where the applicant has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor, the dealer shall hold the delivery of the pistol or semiautomatic assault rifle until the warrant for arrest is served and satisfied by appropriate court appearance. The local jurisdiction for purposes of the sale, or the

state pursuant to subsection (3)(b) of this section, shall confirm the existence of outstanding warrants within seventy-two hours after notification of the application to purchase a pistol or semiautomatic assault rifle is received. The local jurisdiction shall also immediately confirm the satisfaction of the warrant on request of the dealer so that the hold may be released if the warrant was for an offense other than an offense making a person ineligible under RCW 9.41.040 to possess a (~~pistol~~) firearm.

~~((4))~~ (5) In any case where the chief or sheriff of the local jurisdiction, or the state pursuant to subsection (3)(b) of this section, has reasonable grounds based on the following circumstances: (a) Open criminal charges, (b) pending criminal proceedings, (c) pending commitment proceedings, (d) an outstanding warrant for an offense making a person ineligible under RCW 9.41.040 to possess a (~~pistol~~) firearm, or (e) an arrest for an offense making a person ineligible under RCW 9.41.040 to possess a (~~pistol~~) firearm, if the records of disposition have not yet been reported or entered sufficiently to determine eligibility to purchase a (~~pistol~~) firearm, the local jurisdiction or the state may hold the sale and delivery of the pistol or semiautomatic assault rifle up to thirty days in order to confirm existing records in this state or elsewhere. After thirty days, the hold will be lifted unless an extension of the thirty days is approved by a local district court, superior court, or municipal court for good cause shown. A dealer shall be notified of each hold placed on the sale by local law enforcement or the state and of any application to the court for additional hold period to confirm records or confirm the identity of the applicant.

~~((5))~~ (6)(a) At the time of applying for the purchase of a pistol or semiautomatic assault rifle, the purchaser shall sign in triplicate and deliver to the dealer an application containing:

(i) His or her full name, residential address, date and place of birth, race, and gender;

(ii) The date and hour of the application;

(iii) The applicant's driver's license number or state identification card number;

(iv) A description of the pistol or semiautomatic assault rifle including the make, model, caliber and manufacturer's number if available at the time of applying for the purchase of a pistol or semiautomatic assault rifle. If the manufacturer's number is not available at the time of applying for the purchase of a pistol or semiautomatic assault rifle, the application may be processed, but delivery of the pistol or semiautomatic assault rifle to the purchaser may not occur unless the manufacturer's number is recorded on the application by the dealer and transmitted to the chief of police of the municipality or the sheriff of the county in which the purchaser resides, or the state pursuant to subsection (3)(b) of this section; ((and))

(v) A statement that the purchaser is eligible to purchase and possess a ((pistol)) firearm under ((RCW 9.41.040)) state and federal law; and

(vi) If purchasing a semiautomatic assault rifle, a statement by the applicant under penalty of perjury that the applicant has completed a recognized firearm safety training program within the last five years, as required by subsection (2) of this section.

(b) The application shall contain ((a)) two warnings substantially stated as follows:

(i) CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. State permission to purchase a firearm is not a defense to a federal prosecution; and

(ii) CAUTION: The presence of a firearm in the home has been associated with an increased risk of death to self and others, including an increased risk of suicide, death during domestic violence incidents, and unintentional deaths to children and others.

The purchaser shall be given a copy of the department of fish and wildlife pamphlet on the legal limits of the use of firearms(~~(7)~~) and firearms safety(~~(, and the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law)~~)).

(c) The dealer shall, by the end of the business day, sign and attach his or her address and deliver a copy of the application and such other documentation as required under subsections (1) and (2) of this section to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident, or the state pursuant to subsection (3)(b) of this section. The triplicate shall be retained by the dealer for six years. The dealer shall deliver the pistol or semiautomatic assault rifle to the purchaser following the period of time specified in this chapter unless the dealer is notified of an investigative hold under subsection (~~(4)~~) (5) of this section in writing by the chief of police of the municipality (~~(or)~~), the sheriff of the county, or the state, whichever is applicable, (~~(denying)~~) or of the denial of the purchaser's application to purchase and the grounds thereof. The application shall not be denied unless the purchaser is not eligible to purchase or possess (~~(a pistol)~~) the firearm under (~~(RCW 9.41.040)~~) state or (~~(9.41.045, or)~~) federal law.

(d) The chief of police of the municipality or the sheriff of the county, or the state pursuant to subsection (3)(b) of this section, shall retain or destroy applications to purchase a pistol or semiautomatic assault rifle in accordance with the requirements of 18 U.S.C. Sec. 922.

~~(6)~~ (7)(a) To help offset the administrative costs of implementing this section as it relates to new requirements for semiautomatic assault rifles, the department of licensing may require the dealer to charge each semiautomatic assault rifle purchaser or transferee a fee not to exceed twenty-five dollars, except that the fee may be adjusted at the beginning of each biennium to levels not to exceed the percentage increase in the

consumer price index for all urban consumers, CPI-W, or a successor index, for the previous biennium as calculated by the United States department of labor.

(b) The fee under (a) of this subsection shall be no more than is necessary to fund the following:

(i) The state for the cost of meeting its obligations under this section;

(ii) The health care authority, mental health institutions, and other health care facilities for state-mandated costs resulting from the reporting requirements imposed by RCW 9.41.097(1); and

(iii) Local law enforcement agencies for state-mandated local costs resulting from the requirements set forth under RCW 9.41.090 and this section.

(8) A person who knowingly makes a false statement regarding identity or eligibility requirements on the application to purchase a ~~((pistol))~~ firearm is guilty of false swearing under RCW 9A.72.040.

~~((+7))~~ (9) This section does not apply to sales to licensed dealers for resale or to the sale of antique firearms.

**Sec. 4.** WAITING PERIOD. RCW 9.41.092 and 2018 c 145 s 4 are each amended to read as follows:

(1) Except as otherwise provided in this chapter and except for semiautomatic assault rifles under subsection (2) of this section, a licensed dealer may not deliver any firearm to a purchaser or transferee until the earlier of:

~~((+1))~~ (a) The results of all required background checks are known and the purchaser or transferee ~~((+a))~~ (i) is not prohibited from owning or possessing a firearm under federal or state law and ~~((+b))~~ (ii) does not have a voluntary waiver of firearm rights currently in effect; or

~~((+2))~~ (b) Ten business days have elapsed from the date the licensed dealer requested the background check. However, for sales and transfers of pistols if the purchaser or transferee does not

have a valid permanent Washington driver's license or state identification card or has not been a resident of the state for the previous consecutive ninety days, then the time period in this subsection shall be extended from ten business days to sixty days.

(2) Except as otherwise provided in this chapter, a licensed dealer may not deliver a semiautomatic assault rifle to a purchaser or transferee until ten business days have elapsed from the date of the purchase application or, in the case of a transfer, ten business days have elapsed from the date a background check is initiated.

NEW SECTION. **Sec. 5.** SECURE GUN STORAGE. A new section is added to chapter 9A.20 RCW to read as follows:

(1) A person who stores or leaves a firearm in a location where the person knows, or reasonably should know, that a prohibited person may gain access to the firearm:

(a) Is guilty of community endangerment due to unsafe storage of a firearm in the first degree if a prohibited person obtains access and possession of the firearm and causes personal injury or death with the firearm; or

(b) Is guilty of community endangerment due to unsafe storage of a firearm in the second degree if a prohibited person obtains access and possession of the firearm and:

(i) Causes the firearm to discharge;

(ii) Carries, exhibits, or displays the firearm in a public place in a manner that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons; or

(iii) Uses the firearm in the commission of a crime.

(2)(a) Community endangerment due to unsafe storage of a firearm in the first degree is a class C felony punishable according to chapter 9A.20 RCW.

(b) Community endangerment due to unsafe storage of a firearm in the second degree is a gross misdemeanor punishable according to chapter 9A.20 RCW.

(3) Subsection (1) of this section does not apply if:



(a) The firearm was in secure gun storage, or secured with a trigger lock or similar device that is designed to prevent the unauthorized use or discharge of the firearm;

(b) In the case of a person who is a prohibited person on the basis of the person's age, access to the firearm is with the lawful permission of the prohibited person's parent or guardian and supervised by an adult, or is in accordance with RCW 9.41.042;

(c) The prohibited person obtains, or obtains and discharges, the firearm in a lawful act of self-defense; or

(d) The prohibited person's access to the firearm was obtained as a result of an unlawful entry, provided that the unauthorized access or theft of the firearm is reported to a local law enforcement agency in the jurisdiction in which the unauthorized access or theft occurred within five days of the time the victim of the unlawful entry knew or reasonably should have known that the firearm had been taken.

(4) If a death or serious injury occurs as a result of an alleged violation of subsection (1)(a) of this section, the prosecuting attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose or would defeat the purpose of the law in question.

(5) For the purposes of this section, "prohibited person" means a person who is prohibited from possessing a firearm under state or federal law.

(6) Nothing in this section mandates how or where a firearm must be stored.

NEW SECTION. **Sec. 6.** AVAILABILITY OF SECURE GUN STORAGE. A new section is added to chapter 9.41 RCW to read as follows:

(1) When selling or transferring any firearm, every dealer shall offer to sell or give the purchaser or transferee a secure gun storage device, or a trigger lock or similar device that is designed to prevent the unauthorized use or discharge of the firearm.

(2) Every store, shop, or sales outlet where firearms are sold, that is registered as a dealer in firearms with the department of licensing, shall conspicuously post, in a prominent location so that all patrons may take notice, the following warning sign, to be provided by the department of licensing, in block letters at least one inch in height:

WARNING: YOU MAY FACE CRIMINAL PROSECUTION IF YOU STORE OR LEAVE AN UNSECURED FIREARM WHERE A PERSON WHO IS PROHIBITED FROM POSSESSING FIREARMS CAN AND DOES OBTAIN POSSESSION.

(3) Every store, shop, or sales outlet where firearms are sold that is registered as a dealer in firearms with the department of licensing, upon the sale or transfer of a firearm, shall deliver a written warning to the purchaser or transferee that states, in block letters not less than one-fourth inch in height:

WARNING: YOU MAY FACE CRIMINAL PROSECUTION IF YOU STORE OR LEAVE AN UNSECURED FIREARM WHERE A PERSON WHO IS PROHIBITED FROM POSSESSING FIREARMS CAN AND DOES OBTAIN POSSESSION.

(4) Every person who violates this section is guilty of a class 1 civil infraction under chapter 7.80 RCW and may be fined up to two hundred fifty dollars. However, no such fines may be levied until thirty days have expired from the time warning signs required under subsection (2) of this section are distributed by the department of licensing.

**Sec. 7.** RCW 9.41.094 and 2018 c 201 s 6004 are each amended to read as follows:

A signed application to purchase a pistol or semiautomatic assault rifle shall constitute a waiver of confidentiality and written request that the health care authority, mental health institutions, and other health care facilities release, to an inquiring court or law enforcement agency, information relevant to the applicant's eligibility to purchase a pistol or semiautomatic assault rifle to an inquiring court or law enforcement agency.

**Sec. 8.** RCW 9.41.097 and 2018 c 201 s 6005 are each amended to read as follows:

(1) The health care authority, mental health institutions, and other health care facilities shall, upon request of a court, ~~((or))~~ law enforcement agency, or the state, supply such relevant information as is necessary to determine the eligibility of a person to possess a ~~((pistol))~~ firearm or to be issued a concealed pistol license under RCW 9.41.070 or to purchase a pistol or semiautomatic assault rifle under RCW 9.41.090.

(2) Mental health information received by: (a) The department of licensing pursuant to RCW 9.41.047 or 9.41.173; (b) an issuing authority pursuant to RCW 9.41.047 or 9.41.070; (c) a chief of police or sheriff pursuant to RCW 9.41.090 or 9.41.173; (d) a court or law enforcement agency pursuant to subsection (1) of this section; or (e) the state pursuant to RCW 9.41.090, shall not be disclosed except as provided in RCW 42.56.240(4).

**Sec. 9.** RCW 9.41.0975 and 2009 c 216 s 7 are each amended to read as follows:

(1) The state, local governmental entities, any public or private agency, and the employees of any state or local governmental entity or public or private agency, acting in good faith, are immune from liability:

(a) For failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful;

(b) For preventing the sale or transfer of a firearm to a person who may lawfully receive or possess a firearm;

(c) For issuing a concealed pistol license or alien firearm license to a person ineligible for such a license;

(d) For failing to issue a concealed pistol license or alien firearm license to a person eligible for such a license;

(e) For revoking or failing to revoke an issued concealed pistol license or alien firearm license;

(f) For errors in preparing or transmitting information as part of determining a person's eligibility to receive or possess a firearm, or eligibility for a concealed pistol license or alien firearm license;

(g) For issuing a dealer's license to a person ineligible for such a license; or

(h) For failing to issue a dealer's license to a person eligible for such a license.

(2) An application may be made to a court of competent jurisdiction for a writ of mandamus:

(a) Directing an issuing agency to issue a concealed pistol license or alien firearm license wrongfully refused;

(b) Directing a law enforcement agency to approve an application to purchase a pistol or semiautomatic assault rifle wrongfully denied;

(c) Directing that erroneous information resulting either in the wrongful refusal to issue a concealed pistol license or alien firearm license or in the wrongful denial of a purchase application for a pistol or semiautomatic assault rifle be corrected; or

(d) Directing a law enforcement agency to approve a dealer's license wrongfully denied.

The application for the writ may be made in the county in which the application for a concealed pistol license or alien firearm license or to purchase a pistol or semiautomatic assault rifle was made, or in Thurston county, at the discretion of the petitioner. A court shall provide an expedited hearing for an application brought under this subsection (2) for a writ of mandamus. A person granted a writ of mandamus under this subsection (2) shall be awarded reasonable attorneys' fees and costs.

**Sec. 10.** RCW 9.41.110 and 2009 c 479 s 10 are each amended to read as follows:

(1) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell,

or otherwise transfer, any pistol without being licensed as provided in this section.

(2) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any firearm other than a pistol without being licensed as provided in this section.

(3) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any ammunition without being licensed as provided in this section.

(4) The duly constituted licensing authorities of any city, town, or political subdivision of this state shall grant licenses in forms prescribed by the director of licensing effective for not more than one year from the date of issue permitting the licensee to sell firearms within this state subject to the following conditions, for breach of any of which the license shall be forfeited and the licensee subject to punishment as provided in RCW 9.41.010 through 9.41.810. A licensing authority shall forward a copy of each license granted to the department of licensing. The department of licensing shall notify the department of revenue of the name and address of each dealer licensed under this section.

(5)(a) A licensing authority shall, within thirty days after the filing of an application of any person for a dealer's license, determine whether to grant the license. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card, or has not been a resident of the state for the previous consecutive ninety days, the licensing authority shall have up to sixty days to determine whether to issue a license. No person shall qualify for a license under this section without first receiving a federal firearms license and undergoing fingerprinting and a background check. In addition, no person ineligible to possess a firearm under RCW 9.41.040 or ineligible for a concealed pistol license under RCW 9.41.070 shall qualify for a dealer's license.

(b) A dealer shall require every employee who may sell a firearm in the course of his or her employment to undergo fingerprinting and a background check. An employee must be eligible to possess a firearm, and must not have been convicted of a crime that would make the person ineligible for a concealed pistol license, before being permitted to sell a firearm. Every employee shall comply with requirements concerning purchase applications and restrictions on delivery of pistols or semiautomatic assault rifles that are applicable to dealers.

(6)(a) Except as otherwise provided in (b) of this subsection, the business shall be carried on only in the building designated in the license. For the purpose of this section, advertising firearms for sale shall not be considered the carrying on of business.

(b) A dealer may conduct business temporarily at a location other than the building designated in the license, if the temporary location is within Washington state and is the location of a gun show sponsored by a national, state, or local organization, or an affiliate of any such organization, devoted to the collection, competitive use, or other sporting use of firearms in the community. Nothing in this subsection (6)(b) authorizes a dealer to conduct business in or from a motorized or towed vehicle.

In conducting business temporarily at a location other than the building designated in the license, the dealer shall comply with all other requirements imposed on dealers by RCW 9.41.090, 9.41.100, and (~~9.41.110~~) this section. The license of a dealer who fails to comply with the requirements of RCW 9.41.080 and 9.41.090 and subsection (8) of this section while conducting business at a temporary location shall be revoked, and the dealer shall be permanently ineligible for a dealer's license.

(7) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises in the area where firearms are sold, or at the temporary location, where it can easily be read.

(8)(a) No pistol or semiautomatic assault rifle may be sold: (i) In violation of any provisions of RCW 9.41.010 through 9.41.810; nor (ii) may a pistol or semiautomatic assault rifle be sold under any circumstances unless the purchaser is personally known to the dealer or shall present clear evidence of his or her identity.

(b) A dealer who sells or delivers any firearm in violation of RCW 9.41.080 is guilty of a class C felony. In addition to any other penalty provided for by law, the dealer is subject to mandatory permanent revocation of his or her dealer's license and permanent ineligibility for a dealer's license.

(c) The license fee for pistols shall be one hundred twenty-five dollars. The license fee for firearms other than pistols shall be one hundred twenty-five dollars. The license fee for ammunition shall be one hundred twenty-five dollars. Any dealer who obtains any license under subsection (1), (2), or (3) of this section may also obtain the remaining licenses without payment of any fee. The fees received under this section shall be deposited in the state general fund.

(9)(a) A true record in triplicate shall be made of every pistol or semiautomatic assault rifle sold, in a book kept for the purpose, the form of which may be prescribed by the director of licensing and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale, the caliber, make, model and manufacturer's number of the weapon, the name, address, occupation, and place of birth of the purchaser, and a statement signed by the purchaser that he or she is not ineligible under ((~~RCW 9.41.040~~)) state or federal law to possess a firearm.

(b) One copy shall within six hours be sent by certified mail to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident, or the state pursuant to RCW 9.41.090; the duplicate the dealer shall within seven days send to the director of licensing; the triplicate the dealer shall retain for six years.

(10) Subsections (2) through (9) of this section shall not apply to sales at wholesale.

(11) The dealer's licenses authorized to be issued by this section are general licenses covering all sales by the licensee within the effective period of the licenses. The department shall provide a single application form for dealer's licenses and a single license form which shall indicate the type or types of licenses granted.

(12) Except as provided in RCW 9.41.090, every city, town, and political subdivision of this state is prohibited from requiring the purchaser to secure a permit to purchase or from requiring the dealer to secure an individual permit for each sale.

**Sec. 11.** RCW 9.41.113 and 2017 c 264 s 2 are each amended to read as follows:

(1) All firearm sales or transfers, in whole or part in this state including without limitation a sale or transfer where either the purchaser or seller or transferee or transferor is in Washington, shall be subject to background checks unless specifically exempted by state or federal law. The background check requirement applies to all sales or transfers including, but not limited to, sales and transfers through a licensed dealer, at gun shows, online, and between unlicensed persons.

(2) No person shall sell or transfer a firearm unless:

(a) The person is a licensed dealer;

(b) The purchaser or transferee is a licensed dealer; or

(c) The requirements of subsection (3) of this section are met.

(3) Where neither party to a prospective firearms transaction is a licensed dealer, the parties to the transaction shall complete the sale or transfer through a licensed dealer as follows:

(a) The seller or transferor shall deliver the firearm to a licensed dealer to process the sale or transfer as if it is selling or transferring the firearm from its inventory to the purchaser or transferee, except that the unlicensed seller or transferor may



remove the firearm from the business premises of the licensed dealer while the background check is being conducted. If the seller or transferor removes the firearm from the business premises of the licensed dealer while the background check is being conducted, the purchaser or transferee and the seller or transferor shall return to the business premises of the licensed dealer and the seller or transferor shall again deliver the firearm to the licensed dealer prior to completing the sale or transfer.

(b) Except as provided in (a) of this subsection, the licensed dealer shall comply with all requirements of federal and state law that would apply if the licensed dealer were selling or transferring the firearm from its inventory to the purchaser or transferee, including but not limited to conducting a background check on the prospective purchaser or transferee in accordance with federal and state law requirements ~~((and))~~, fulfilling all federal and state recordkeeping requirements, and complying with the specific requirements and restrictions on semiautomatic assault rifles in this act.

(c) The purchaser or transferee must complete, sign, and submit all federal, state, and local forms necessary to process the required background check to the licensed dealer conducting the background check.

(d) If the results of the background check indicate that the purchaser or transferee is ineligible to possess a firearm, then the licensed dealer shall return the firearm to the seller or transferor.

(e) The licensed dealer may charge a fee that reflects the fair market value of the administrative costs and efforts incurred by the licensed dealer for facilitating the sale or transfer of the firearm.

(4) This section does not apply to:

(a) A transfer between immediate family members, which for this subsection shall be limited to spouses, domestic partners, parents, parents-in-law, children, siblings, siblings-in-law, grandparents,

grandchildren, nieces, nephews, first cousins, aunts, and uncles, that is a bona fide gift or loan;

(b) The sale or transfer of an antique firearm;

(c) A temporary transfer of possession of a firearm if such transfer is necessary to prevent imminent death or great bodily harm to the person to whom the firearm is transferred if:

(i) The temporary transfer only lasts as long as immediately necessary to prevent such imminent death or great bodily harm; and

(ii) The person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law;

(d) A temporary transfer of possession of a firearm if: (i) The transfer is intended to prevent suicide or self-inflicted great bodily harm; (ii) the transfer lasts only as long as reasonably necessary to prevent death or great bodily harm; and (iii) the firearm is not utilized by the transferee for any purpose for the duration of the temporary transfer;

(e) Any law enforcement or corrections agency and, to the extent the person is acting within the course and scope of his or her employment or official duties, any law enforcement or corrections officer, United States marshal, member of the armed forces of the United States or the national guard, or federal official;

(f) A federally licensed gunsmith who receives a firearm solely for the purposes of service or repair, or the return of the firearm to its owner by the federally licensed gunsmith;

(g) The temporary transfer of a firearm (i) between spouses or domestic partners; (ii) if the temporary transfer occurs, and the firearm is kept at all times, at an established shooting range authorized by the governing body of the jurisdiction in which such range is located; (iii) if the temporary transfer occurs and the transferee's possession of the firearm is exclusively at a lawful organized competition involving the use of a firearm, or while participating in or practicing for a performance by an organized group that uses firearms as a part of the performance; (iv) to a person who is under eighteen years of age for lawful hunting,

sporting, or educational purposes while under the direct supervision and control of a responsible adult who is not prohibited from possessing firearms; (v) under circumstances in which the transferee and the firearm remain in the presence of the transferor; or (vi) while hunting if the hunting is legal in all places where the person to whom the firearm is transferred possesses the firearm and the person to whom the firearm is transferred has completed all training and holds all licenses or permits required for such hunting, provided that any temporary transfer allowed by this subsection is permitted only if the person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law;

(h) A person who (i) acquired a firearm other than a pistol by operation of law upon the death of the former owner of the firearm or (ii) acquired a pistol by operation of law upon the death of the former owner of the pistol within the preceding sixty days. At the end of the sixty-day period, the person must either have lawfully transferred the pistol or must have contacted the department of licensing to notify the department that he or she has possession of the pistol and intends to retain possession of the pistol, in compliance with all federal and state laws; or

(i) A sale or transfer when the purchaser or transferee is a licensed collector and the firearm being sold or transferred is a curio or relic.

**Sec. 12.** RCW 9.41.124 and 2015 c 1 s 7 are each amended to read as follows:

Residents of a state other than Washington may purchase rifles and shotguns, except those firearms defined as semiautomatic assault rifles, in Washington: PROVIDED, That such residents conform to the applicable provisions of the federal Gun Control Act of 1968, Title IV, Pub. L. 90-351 as administered by the United States secretary of the treasury: AND PROVIDED FURTHER, That such residents are eligible to purchase or possess such weapons in Washington and in the state in which such persons reside: AND PROVIDED FURTHER, That such

residents are subject to the procedures and background checks required by this chapter.

**Sec. 13.** RCW 9.41.240 and 1994 sp.s. c 7 s 423 are each amended to read as follows:

(1) A person under twenty-one years of age may not purchase a pistol or semiautomatic assault rifle, and except as otherwise provided in this chapter, no person may sell or transfer a semiautomatic assault rifle to a person under twenty-one years of age.

(2) Unless an exception under RCW 9.41.042, 9.41.050, or 9.41.060 applies, a person at least eighteen years of age, but less than twenty-one years of age, may possess a pistol only:

((+1)) (a) In the person's place of abode;

((+2)) (b) At the person's fixed place of business; or

((+3)) (c) On real property under his or her control.

(3) Except in the places and situations identified in RCW 9.41.042 (1) through (9) and 9.41.060 (1) through (10), a person at least eighteen years of age, but less than twenty-one years of age, may possess a semiautomatic assault rifle only:

(a) In the person's place of abode;

(b) At the person's fixed place of business;

(c) On real property under his or her control; or

(d) For the specific purpose of (i) moving to a new place of abode; (ii) traveling between the person's place of abode and real property under his or her control; or (iii) selling or transferring the firearm in accordance with the requirements of this chapter; provided that in all of these situations the semiautomatic assault rifle is unloaded and either in secure gun storage or secured with a trigger lock or similar device that is designed to prevent the unauthorized use or discharge of the firearm.

**Sec. 14.** RCW 9.41.129 and 2005 c 274 s 203 are each amended to read as follows:

The department of licensing (~~may~~) shall keep copies or records of applications for concealed pistol licenses provided for in RCW 9.41.070, copies or records of applications for alien firearm licenses, copies or records of applications to purchase pistols or semiautomatic assault rifles provided for in RCW 9.41.090, and copies or records of pistol or semiautomatic assault rifle transfers provided for in RCW 9.41.110. The copies and records shall not be disclosed except as provided in RCW 42.56.240(4).

NEW SECTION. **Sec. 15.** A new section is added to chapter 9.41 RCW to read as follows:

(1) Within twelve months of the effective date of this section, the department of licensing shall, in conjunction with the Washington state patrol and other state and local law enforcement agencies as necessary, develop a cost-effective and efficient process to:

(a) Verify, on an annual or more frequent basis, that persons who acquired pistols or semiautomatic assault rifles pursuant to this chapter remain eligible to possess a firearm under state and federal law; and

(b) If such persons are determined to be ineligible for any reason, (i) notify and provide the relevant information to the chief of police or the sheriff of the jurisdiction in which the purchaser resides and (ii) take steps to ensure such persons are not illegally in possession of firearms.

(2) The department of licensing, where appropriate, may consult with individuals from the public and private sector or ask the individuals to establish a temporary advisory committee to accomplish the purposes in subsection (1) of this section. Members of such an advisory committee are not entitled to expense reimbursement.

**Sec. 16.** RCW 9.41.010 and 2018 c 7 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Antique firearm" means a firearm or replica of a firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including any matchlock, flintlock, percussion cap, or similar type of ignition system and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(2) "Barrel length" means the distance from the bolt face of a closed action down the length of the axis of the bore to the crown of the muzzle, or in the case of a barrel with attachments to the end of any legal device permanently attached to the end of the muzzle.

(3) "Bump-fire stock" means a butt stock designed to be attached to a semiautomatic firearm with the effect of increasing the rate of fire achievable with the semiautomatic firearm to that of a fully automatic firearm by using the energy from the recoil of the firearm to generate reciprocating action that facilitates repeated activation of the trigger.

(4) "Crime of violence" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, burglary in the second degree, residential burglary, and robbery in the second degree;

(b) Any conviction for a felony offense in effect at any time prior to June 6, 1996, which is comparable to a felony classified as a crime of violence in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense comparable to a felony classified as a crime of violence under (a) or (b) of this subsection.

(5) "Curio or relic" has the same meaning as provided in 27 C.F.R. Sec. 478.11.

(6) "Dealer" means a person engaged in the business of selling firearms at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A person who does not have, and is not required to have, a federal firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection of firearms.

(7) "Family or household member" means "family" or "household member" as used in RCW 10.99.020.

(8) "Felony" means any felony offense under the laws of this state or any federal or out-of-state offense comparable to a felony offense under the laws of this state.

(9) "Felony firearm offender" means a person who has previously been convicted or found not guilty by reason of insanity in this state of any felony firearm offense. A person is not a felony firearm offender under this chapter if any and all qualifying offenses have been the subject of an expungement, pardon, annulment, certificate, or rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(10) "Felony firearm offense" means:

(a) Any felony offense that is a violation of this chapter;

(b) A violation of RCW 9A.36.045;

(c) A violation of RCW 9A.56.300;

(d) A violation of RCW 9A.56.310;

(e) Any felony offense if the offender was armed with a firearm in the commission of the offense.

(11) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. "Firearm" does not include a flare gun or other pyrotechnic visual distress signaling device, or a powder-actuated tool or other device designed solely to be used for construction purposes.

(12) "Gun" has the same meaning as firearm.

(13) "Law enforcement officer" includes a general authority Washington peace officer as defined in RCW 10.93.020, or a specially commissioned Washington peace officer as defined in RCW 10.93.020. "Law enforcement officer" also includes a limited authority Washington peace officer as defined in RCW 10.93.020 if such officer is duly authorized by his or her employer to carry a concealed pistol.

(14) "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20).

(15) "Licensed collector" means a person who is federally licensed under 18 U.S.C. Sec. 923(b).

(16) "Licensed dealer" means a person who is federally licensed under 18 U.S.C. Sec. 923(a).

(17) "Loaded" means:

(a) There is a cartridge in the chamber of the firearm;

(b) Cartridges are in a clip that is locked in place in the firearm;

(c) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver;

(d) There is a cartridge in the tube or magazine that is inserted in the action; or

(e) There is a ball in the barrel and the firearm is capped or primed if the firearm is a muzzle loader.



(18) "Machine gun" means any firearm known as a machine gun, mechanical rifle, submachine gun, or any other mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into the firearm, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

(19) "Nonimmigrant alien" means a person defined as such in 8 U.S.C. Sec. 1101(a)(15).

(20) "Person" means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company, or other legal entity.

(21) "Pistol" means any firearm with a barrel less than sixteen inches in length, or is designed to be held and fired by the use of a single hand.

(22) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(23) "Sale" and "sell" mean the actual approval of the delivery of a firearm in consideration of payment or promise of payment.

(24) "Secure gun storage" means:

(a) A locked box, gun safe, or other secure locked storage space that is designed to prevent unauthorized use or discharge of a firearm; and

(b) The act of keeping an unloaded firearm stored by such means.

(25) "Semiautomatic assault rifle" means any rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

"Semiautomatic assault rifle" does not include antique firearms, any firearm that has been made permanently inoperable, or any

firearm that is manually operated by bolt, pump, lever, or slide action.

(26) "Serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any crime of violence;

(b) Any felony violation of the uniform controlled substances act, chapter 69.50 RCW, that is classified as a class B felony or that has a maximum term of imprisonment of at least ten years;

(c) Child molestation in the second degree;

(d) Incest when committed against a child under age fourteen;

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) Drive-by shooting;

(j) Sexual exploitation;

(k) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(l) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(m) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under RCW 9.94A.030;

(n) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(o) Any felony offense in effect at any time prior to June 6, 1996, that is comparable to a serious offense, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious offense; or

(p) Any felony conviction under RCW 9.41.115.

~~((25))~~ (27) "Short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

~~((26))~~ (28) "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

~~((27))~~ (29) "Shotgun" means a weapon with one or more barrels, designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

~~((28))~~ (30) "Transfer" means the intended delivery of a firearm to another person without consideration of payment or promise of payment including, but not limited to, gifts and loans. "Transfer" does not include the delivery of a firearm owned or leased by an entity licensed or qualified to do business in the state of Washington to, or return of such a firearm by, any of that entity's employees or agents, defined to include volunteers participating in an honor guard, for lawful purposes in the ordinary course of business.

~~((29))~~ (31) "Unlicensed person" means any person who is not a licensed dealer under this chapter.

NEW SECTION. **Sec. 17.** This act takes effect July 1, 2019, except for section 13 of this act which takes effect January 1, 2019.

NEW SECTION. **Sec. 18.** The director of the department of licensing may take the necessary steps to ensure that this act is implemented on its effective date.

NEW SECTION. **Sec. 19.** If any provision of this act or its application to any person or circumstance is held invalid or preempted by federal law, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

--- **END** ---

# **EXHIBIT B**



**Bob Ferguson**  
**ATTORNEY GENERAL OF WASHINGTON**

Administration Division  
PO Box 40100 • Olympia WA 98504-0100 • (360) 753-6200

May 9, 2018

The Honorable Kim Wyman  
Elections Division  
ATTN: Initiative and Referendum  
PO Box 40220  
Olympia, WA 98504-0220

Re: Initiative No. 1639

Dear Secretary Wyman:

Pursuant to RCW 29A.72.060, we supply herewith the ballot title and ballot measure summary for Initiative No. 1639 to the People (an act relating to increasing public safety by implementing firearm safety measures, including requiring enhanced background checks, waiting periods, and increased age requirements for semiautomatic assault rifles and secure gun storage for all firearms).

**BALLOT TITLE**

Statement of Subject: Initiative Measure No. 1639 concerns firearms.

Concise Description: This measure would require enhanced background checks, training, and waiting periods for sales or delivery of semiautomatic assault rifles; criminalize certain storage and unauthorized use; impose age limitations; and enact other firearm-safety requirements.

Should this measure be enacted into law? Yes [ ] No [ ]

**BALLOT MEASURE SUMMARY**

This measure would require enhanced background checks, firearm training, and waiting periods before semiautomatic assault rifles may be purchased or delivered. It would impose age limitations on who may purchase or possess certain firearms, including prohibiting firearm purchases by persons under age 21. It would require certain secured firearm storage or trigger-locks, and criminalize certain firearm storage if it results in unauthorized use. It would enact other firearm-related requirements, including certain warnings, recordkeeping, and fees.

Sincerely,

ANNE E. EGELER  
Deputy Solicitor General  
(360) 753-7085