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**HOUSE BILL 2374**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives Senn, Kagi, Appleton, Walkinshaw, McBride, Peterson, Pollet, and Farrell

AN ACT Relating to a statewide ammunition fee to fund local public safety; amending RCW 82.14.310 and 82.14.330; adding new sections to chapter 9.41 RCW; creating new sections; and prescribing penalties.

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

NEW SECTION. **Sec.**  (1) The legislature finds that, in the United States, between ten and twelve billion rounds of ammunition are sold each year. The legislature further finds that gun ownership is linked to increased gun-related homicide and accidental deaths. In Washington, more people die from firearm-related deaths than from motor vehicle crashes each year, leading to tremendous costs to local law enforcement agencies and the public.

(2) The legislature hereby imposes a statewide fee upon the retail sale of ammunition in order to provide funding for public safety in Washington communities, especially those dealing with gun-related violence. The ammunition fee does not infringe upon the right of the citizens of Washington state to bear arms. Rather, the ammunition fee offsets the impacts of gun-related violence which are directly and indirectly tied to the sale of ammunition.

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

(1) There is levied and collected a fee upon the retail sale of all ammunition in an amount equal to five cents per round of ammunition. The fee imposed under this section must be paid by the buyer to the seller. Each seller must collect from the buyer the full amount of the fee in respect to each retail sale of ammunition. The fee collected from the buyer by the seller must be paid to the department of revenue in accordance with RCW 82.32.045.

(2) The fee imposed under subsection (1) of this section does not apply to the retail sale of ammunition to federal, state, or local public safety or law enforcement agencies or to the United States military.

(3) All other applicable provisions of chapter 82.32 RCW have full force and application with respect to the fee imposed under this section. The department of revenue must administer this section.

(4) Receipts from the ammunition fee imposed in this section must be distributed as follows:

(a) Fifty percent of the receipts must be deposited into the county criminal justice assistance account for distribution according to RCW 82.14.310.

(b) Fifty percent of the receipts must be deposited into the municipal criminal justice assistance account for distribution according to RCW 82.14.330.

(5) As used in this section, "ammunition" means cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

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

(1) The fees required to be collected by the seller under section 2 of this act are deemed to be held in trust by the seller until paid to the department of revenue, and any seller who appropriates or converts the fees collected to his or her own use or to any use other than the payment of the fees to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) If any seller fails to collect the fees imposed under section 2 of this act or having collected the fees, fails to pay the collected fees to the department of revenue in the manner prescribed in section 2 of this act, whether such failure is the result of his or her own acts or the result of acts or conditions beyond the seller's control, the seller is nevertheless, personally liable to the state for the amount of the fees.

(3) The amount of the fees, until paid by the buyer to the seller or to the department of revenue, constitutes a debt from the buyer to the seller. Any seller who fails or refuses to collect the fees as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any fees due under this chapter is guilty of a misdemeanor.

**Sec.**  RCW 82.14.310 and 2013 2nd sp.s. c 4 s 1004 are each amended to read as follows:

(1) The county criminal justice assistance account is created in the state treasury.

(a) Beginning in fiscal year 2000, the state treasurer must transfer into the county criminal justice assistance account from the general fund the sum of twenty-three million two hundred thousand dollars divided into four equal deposits occurring on July 1, October 1, January 1, and April 1. For each fiscal year thereafter, the state treasurer must increase the total transfer by the fiscal growth factor, as defined in RCW 43.135.025, forecast for that fiscal year by the office of financial management in November of the preceding year.

(b) Fifty percent of receipts from the fee authorized in section 2 of this act must be deposited into the county criminal justice assistance account, subject to distribution under this section.

(2) The moneys deposited in the county criminal justice assistance account for distribution under this section, less any moneys appropriated for purposes under subsection (4) of this section, must be distributed at such times as distributions are made under RCW 82.44.150 and on the relative basis of each county's funding factor as determined under this subsection.

(a) A county's funding factor is the sum of:

(i) The population of the county, divided by one thousand, and multiplied by two-tenths;

(ii) The crime rate of the county, multiplied by three-tenths; and

(iii) The annual number of criminal cases filed in the county superior court, for each one thousand in population, multiplied by five-tenths.

(b) Under this section and RCW 82.14.320 and 82.14.330:

(i) The population of the county or city is as last determined by the office of financial management;

(ii) The crime rate of the county or city is the annual occurrence of specified criminal offenses, as calculated in the most recent annual report on crime in Washington state as published by the Washington association of sheriffs and police chiefs, for each one thousand in population;

(iii) The annual number of criminal cases filed in the county superior court must be determined by the most recent annual report of the courts of Washington, as published by the administrative office of the courts;

(iv) Distributions and eligibility for distributions in the 1989-1991 biennium must be based on 1988 figures for both the crime rate as described under (b)(ii) of this subsection and the annual number of criminal cases that are filed as described under (b)(iii) of this subsection. Future distributions must be based on the most recent figures for both the crime rate as described under (b)(ii) of this subsection and the annual number of criminal cases that are filed as described under (b)(iii) of this subsection.

(3) Moneys distributed under this section must be expended exclusively for criminal justice purposes and may not be used to replace or supplant existing funding. Criminal justice purposes are defined as activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil or juvenile justice system occurs, and which includes (a) domestic violence services such as those provided by domestic violence programs, community advocates, and legal advocates, as defined in RCW 70.123.020, and (b) during the 2001-2003 fiscal biennium, juvenile dispositional hearings relating to petitions for at-risk youth, truancy, and children in need of services. Existing funding for purposes of this subsection is defined as calendar year 1989 actual operating expenditures for criminal justice purposes. Calendar year 1989 actual operating expenditures for criminal justice purposes exclude the following: Expenditures for extraordinary events not likely to reoccur, changes in contract provisions for criminal justice services, beyond the control of the local jurisdiction receiving the services, and major nonrecurring capital expenditures.

(4) Not more than five percent of the funds deposited to the county criminal justice assistance account may be available for appropriations for enhancements to the state patrol crime laboratory system and the continuing costs related to these enhancements. Funds appropriated from this account for such enhancements may not supplant existing funds from the state general fund.

(5) During the 2011-2013 fiscal biennium, the amount that would otherwise be transferred into the county criminal justice assistance account from the general fund under subsection (1)(a) of this section must be reduced by 3.4 percent.

(6) During the 2013-2015 fiscal biennium, for the purposes of substance abuse and other programs for offenders, the legislature may appropriate from the county criminal justice assistance account such amounts as are in excess of the amounts necessary to fully meet the state's obligations to the counties and to the Washington state patrol. Excess amounts in this account are not the result of subsection (5) of this section.

**Sec.**  RCW 82.14.330 and 2011 1st sp.s. c 50 s 972 are each amended to read as follows:

(1)(a) Beginning in fiscal year 2000, the state treasurer must transfer into the municipal criminal justice assistance account for distribution under this section from the general fund the sum of four million six hundred thousand dollars divided into four equal deposits occurring on July 1, October 1, January 1, and April 1. For each fiscal year thereafter, the state treasurer must increase the total transfer by the fiscal growth factor, as defined in RCW 43.135.025, forecast for that fiscal year by the office of financial management in November of the preceding year. The moneys deposited in the municipal criminal justice assistance account for distribution under this section, less any moneys appropriated for purposes under subsection (4) of this section, must be distributed to the cities of the state as follows:

(i) Twenty percent appropriated for distribution must be distributed to cities with a three-year average violent crime rate for each one thousand in population in excess of one hundred fifty percent of the statewide three-year average violent crime rate for each one thousand in population. The three-year average violent crime rate must be calculated using the violent crime rates for each of the preceding three years from the annual reports on crime in Washington state as published by the Washington association of sheriffs and police chiefs. Moneys must be distributed under this subsection (1)(a) ratably based on population as last determined by the office of financial management, but no city may receive more than one dollar per capita. Moneys remaining undistributed under this subsection at the end of each calendar year must be distributed to the criminal justice training commission to reimburse participating city law enforcement agencies with ten or fewer full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training, as provided in RCW 43.101.200.

(ii) Sixteen percent must be distributed to cities ratably based on population as last determined by the office of financial management, but no city may receive less than one thousand dollars.

(b) Fifty percent of receipts from the fee authorized in section 2 of this act must be deposited into the municipal justice assistance account and distributed to cities with a three-year average violent crime rate for each one thousand in population in excess of one hundred fifty percent of the statewide three-year average violent crime rate for each one thousand in population. The three-year average violent crime rate must be calculated using the violent crime rates for each of the preceding three years from the annual reports on crime in Washington state as published by the Washington association of sheriffs and police chiefs. Moneys must be distributed under this subsection (1)(b) ratably based on population as last determined by the office of financial management, but no city may receive more than one dollar per capita. Moneys remaining undistributed under this subsection at the end of each calendar year must be distributed to cities ratably based on population for expenditure according to (d)(ii) of this subsection (1).

(c) The moneys deposited in the municipal criminal justice assistance account for distribution under this subsection (1) must be distributed at such times as distributions are made under RCW 82.44.150.

((~~(c)~~)) (d)(i) Moneys distributed under this subsection (1), with the exception of any moneys remaining undistributed at the end of the calendar year in (b) of this subsection (1), must be expended exclusively for criminal justice purposes and may not be used to replace or supplant existing funding. Criminal justice purposes are defined as activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil justice system occurs, and which includes domestic violence services such as those provided by domestic violence programs, community advocates, and legal advocates, as defined in RCW 70.123.020. Existing funding for purposes of this subsection is defined as calendar year 1989 actual operating expenditures for criminal justice purposes. Calendar year 1989 actual operating expenditures for criminal justice purposes exclude the following: Expenditures for extraordinary events not likely to reoccur, changes in contract provisions for criminal justice services, beyond the control of the local jurisdiction receiving the services, and major nonrecurring capital expenditures.

(ii) Moneys remaining undistributed under (b) of this subsection (1) at the end of each calendar year must be expended exclusively for criminal justice purposes related to firearm-related violence or for the costs associated with the disposal, by law enforcement agencies, of judicially forfeited firearms.

(2)(a) In addition to the distributions under subsection (1) of this section:

(i) Ten percent must be distributed on a per capita basis to cities that contract with another governmental agency for the majority of the city's law enforcement services. Cities that subsequently qualify for this distribution must notify the department of commerce by November 30th for the upcoming calendar year. The department of commerce must provide a list of eligible cities to the state treasurer by December 31st. The state treasurer must modify the distribution of these funds in the following year. Cities have the responsibility to notify the department of commerce of any changes regarding these contractual relationships. Adjustments in the distribution formula to add or delete cities may be made only for the upcoming calendar year; no adjustments may be made retroactively.

(ii) The remaining fifty-four percent must be distributed to cities and towns by the state treasurer on a per capita basis. These funds must be used for: (A) Innovative law enforcement strategies; (B) programs to help at-risk children or child abuse victim response programs; and (C) programs designed to reduce the level of domestic violence or to provide counseling for domestic violence victims.

(b) The moneys deposited in the municipal criminal justice assistance account for distribution under this subsection (2), less any moneys appropriated for purposes under subsection (4) of this section, must be distributed at the times as distributions are made under RCW 82.44.150. Moneys remaining undistributed under this subsection at the end of each calendar year must be distributed to the criminal justice training commission to reimburse participating city law enforcement agencies with ten or fewer full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training, as provided in RCW 43.101.200.

(c) If a city is found by the state auditor to have expended funds received under this subsection (2) in a manner that does not comply with the criteria under which the moneys were received, the city is ineligible to receive future distributions under this subsection (2) until the use of the moneys are justified to the satisfaction of the director or are repaid to the state general fund.

(3) Notwithstanding other provisions of this section, the distributions to any city that substantially decriminalizes or repeals its criminal code after July 1, 1990, and that does not reimburse the county for costs associated with criminal cases under RCW 3.50.800 or 3.50.805(2), must be made to the county in which the city is located.

(4) Not more than five percent of the funds deposited to the municipal criminal justice assistance account may be available for appropriations for enhancements to the state patrol crime laboratory system and the continuing costs related to these enhancements. Funds appropriated from this account for such enhancements may not supplant existing funds from the state general fund.

(5) During the 2011-2013 fiscal biennium, the amount that would otherwise be transferred into the municipal criminal justice assistance account from the general fund under subsection (1) of this section must be reduced by 3.4 percent.

NEW SECTION. **Sec.**  Sections 2 and 3 of this act apply to the sale of ammunition sold on or after July 1, 2016.

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