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SENATE BILL 5356

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State of Washington

52nd Legislature

1991 Regular Session

By Senators Metcalf and Rasmussen.

Read first time January 29, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to juries; adding a new section to chapter 10.04  
2 RCW; and adding a new section to chapter 10.46 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 10.04 RCW  
5 to read as follows:

6 (1) It is the natural right of every citizen of this state, when  
7 serving on a criminal trial jury, to judge both the law and the facts  
8 pertaining to the case before that jury, in order to determine whether  
9 justice will be serviced by applying the law to the defendant. It is  
10 mandatory that all jurors be informed of this right.

11 (2) Before the jury hears a case, and again before jury  
12 deliberation begins, the court shall inform the jurors of their rights  
13 in these words: "As jurors, your first responsibility is to decide  
14 whether the defendant has broken the law. If you decide that he has,

1 but that you cannot in good conscience support a guilty verdict, you  
2 are not required to do so. To reach a verdict that you believe is  
3 just, each of you has the right to consider to what extent the  
4 defendant's actions have actually caused harm or otherwise violated  
5 your sense of right and wrong. If you believe justice requires it, you  
6 may also judge both the merits of the law under which he has been  
7 charged and the wisdom of applying that law to the defendant.  
8 Accordingly, for each charge against the defendant, even if review of  
9 the evidence strictly in terms of the law would indicate a guilty  
10 verdict, you have the right to find him innocent. The court cautions  
11 that with the exercise of this right comes full moral responsibility  
12 for the verdict you bring in."

13 (3) As part of their oath, the jurors shall affirm that they  
14 understand the information concerning their rights which this section  
15 requires the court to give them, and no party to the trial may be  
16 prevented from encouraging jurors to exercise this right. For the  
17 jurors to be so informed is declared to be part of the defendant's  
18 fundamental right to trial by jury, and failure to conduct any criminal  
19 trial in accordance with this section does not constitute harmless  
20 error, and is grounds for mistrial. No potential juror may be  
21 disqualified from serving on a jury because he expresses willingness to  
22 judge the law or its application, or to vote according to conscience.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 10.46 RCW  
24 to read as follows:

25 (1) It is the natural right of every citizen of this state, when  
26 serving on a criminal trial jury, to judge both the law and the facts  
27 pertaining to the case before that jury, in order to determine whether  
28 justice will be serviced by applying the law to the defendant. It is  
29 mandatory that all jurors be informed of this right.

1           (2) Before the jury hears a case, and again before jury  
2 deliberation begins, the court shall inform the jurors of their rights  
3 in these words: "As jurors, your first responsibility is to decide  
4 whether the defendant has broken the law. If you decide that he has,  
5 but that you cannot in good conscience support a guilty verdict, you  
6 are not required to do so. To reach a verdict that you believe is  
7 just, each of you has the right to consider to what extent the  
8 defendant's actions have actually caused harm or otherwise violated  
9 your sense of right and wrong. If you believe justice requires it, you  
10 may also judge both the merits of the law under which he has been  
11 charged and the wisdom of applying that law to the defendant.  
12 Accordingly, for each charge against the defendant, even if review of  
13 the evidence strictly in terms of the law would indicate a guilty  
14 verdict, you have the right to find him innocent. The court cautions  
15 that with the exercise of this right comes full moral responsibility  
16 for the verdict you bring in."

17           (3) As part of their oath, the jurors shall affirm that they  
18 understand the information concerning their rights which this section  
19 requires the court to give them, and no party to the trial may be  
20 prevented from encouraging jurors to exercise this right. For the  
21 jurors to be so informed is declared to be part of the defendant's  
22 fundamental right to trial by jury, and failure to conduct any criminal  
23 trial in accordance with this section does not constitute harmless  
24 error, and is grounds for mistrial. No potential juror may be  
25 disqualified from serving on a jury because he expresses willingness to  
26 judge the law or its application, or to vote according to conscience.