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HOUSE BILL 2975

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State of Washington                      64th Legislature                      2016 Regular Session

By Representatives Shea, Taylor, Scott, McCaslin, Condotta, and Dent

Read first time 02/05/16. Referred to Committee on Judiciary.

1            AN ACT Relating to establishing the Washington state firearms  
2 civil rights act; adding new sections to chapter 9.41 RCW; creating  
3 new sections; and prescribing penalties.

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

5            NEW SECTION.    **Sec. 1.** This act may be known and cited as the  
6 Washington state firearms civil rights act.

7            NEW SECTION.    **Sec. 2.** A new section is added to chapter 9.41 RCW  
8 to read as follows:

9            The Washington state legislature finds that the right to keep and  
10 bear arms embodied in the federal and state Constitutions is a  
11 fundamental freedom that existed long before the founding of this  
12 nation and state and this right should continue to be protected,  
13 nurtured, and expanded. The legislature further finds that the  
14 founding fathers of our nation and state wanted to have firearms in  
15 the hands of ordinary citizens as a means of protecting freedom and  
16 deterring potential despots from undermining our constitutional  
17 republic by force. The American revolution was won by an armed  
18 populace against the British standing army.

19            George Mason, coauthor of the second amendment and along with  
20 James Madison, is called the "Father of the United States Bill of

1 Rights," stated during Virginia's Convention to Ratify the  
2 Constitution in 1788, "I ask, Sir, what is the militia? It is the  
3 whole people. To disarm the people is the best and most effectual way  
4 to enslave them." George Washington, America's first president, said,  
5 "Firearms stand next in importance to the Constitution itself. They  
6 are the American people's liberty teeth and keystone under  
7 independence. From the hour the Pilgrims landed, to the present day,  
8 events, occurrences and tendencies prove that to ensure peace,  
9 security and happiness, the rifle and pistol are equally  
10 indispensable. The very atmosphere of firearms everywhere restrains  
11 evil interference - they deserve a place of honor with all that's  
12 good." Thomas Jefferson, author of the Declaration of Independence  
13 and third president of the United States, said, "No freeman shall  
14 ever be debarred the use of arms" and "Those who hammer their guns  
15 into plowshares will plow for those who do not." Alexander Hamilton,  
16 in the federalist papers, wrote "The best we can help for concerning  
17 the people at large is that they be properly armed." Thomas Paine,  
18 American pamphleteer and author of "Common Sense" said, "The supposed  
19 quietude of a good man allures the ruffian; while on the other hand,  
20 arms, like laws, discourage and keep the invader and plunderer in  
21 awe, and preserve order in the world as property... Horrid mischief  
22 would ensue were the law-abiding deprived of the use of them... The  
23 great object is that every man be armed! Everyone who is able may  
24 have a gun."

25 The founding fathers clearly understood that the possession and  
26 use of firearms could on occasion result in unfortunate consequences  
27 as a result of criminal behavior or a tragic accident, and the large  
28 number of lives that are lost whenever freedom is destroyed and an  
29 oppressive government is established; however, they also realized the  
30 many lives that would be saved as a result of the right to bear arms  
31 helping to preserve freedom and resist tyranny.

32 History has vindicated the wisdom of our founding fathers. While  
33 citizens in the United States have experienced unprecedented freedom,  
34 peace, security and happiness, the world has witnessed six million  
35 Jews murdered by Adolf Hitler, fifteen million Russians slaughtered  
36 by Joseph Stalin, and an estimated sixty million Chinese murdered in  
37 communist China, none of whom were allowed to possess firearms.

38 As a result of these lessons from history, it is the intent of  
39 the legislature to promote freedom and protect public safety by  
40 enacting the Washington state firearms civil rights act and by

1 imposing civil and criminal penalties on any person or public  
2 official who unlawfully or unconstitutionally interferes with the  
3 right of a citizen to keep and bear arms, or who criminally possesses  
4 or uses a firearm.

5 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.41 RCW  
6 to read as follows:

7 (1) A person shall be guilty of denial of firearms civil rights  
8 if he or she is a public official and:

9 (a) Denies or causes the denial of the issuance or renewal of a  
10 concealed pistol license to an applicant who is qualified for a  
11 concealed pistol license under state law;

12 (b) Requires or requests an applicant for a concealed pistol  
13 license to provide additional information beyond that required by  
14 state law, or causes such requirement or request to be made;

15 (c) Confiscates or orders forfeiture of, without authority of  
16 state law or without due process of law, a citizen's firearm, firearm  
17 part or accessory, or ammunition, or establishes a policy or practice  
18 of such confiscation or forfeiture;

19 (d) Prohibits a licensed or individual seller of a firearm,  
20 firearm part or accessory, or ammunition, without the authority of  
21 state law or without due process of law, from delivering the firearm,  
22 firearm part or accessory, or ammunition, to a purchaser, or causes  
23 such prohibition to be made; or

24 (e) Orders or impedes, without authority of state law or without  
25 due process of law, a licensed seller to delay delivery of a firearm  
26 to a purchaser beyond the time limit specified in state law, or  
27 causes such order or impediment to be made.

28 (2) The fact or claim that a public official was acting under the  
29 direction of an employer or supervisor is not a defense to an action  
30 under subsection (1) of this section.

31 (3) This section applies both to employees who violate a  
32 provision of this section and to any employers or supervisors who  
33 require or order an employee to violate a provision of this section  
34 or know of such violation and acquiesce to the violation.

35 (4) For the purposes of this section, "public official" means any  
36 person employed by the state or by any political subdivision, or by  
37 any agency thereof, and any elected or appointed official thereof.

38 (5) Denial of firearms civil rights is a gross misdemeanor.

1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 9.41 RCW  
2 to read as follows:

3        A person whose firearms civil rights have been denied or  
4 infringed under section 3 of this act shall be awarded civil damages  
5 equal to one thousand dollars for each violation plus reasonable  
6 attorneys' fees, and costs associated with efforts to seek civil  
7 remedies and regain the person's firearms civil rights. The civil  
8 remedies may be sought regardless of whether or not criminal charges  
9 are filed pursuant to section 3 of this act; and the petitioner's  
10 case shall not be prejudiced by the fact that criminal charges were  
11 not filed. The civil action may be brought in the county where the  
12 violation occurred or in the county where the petitioner resides at  
13 the discretion of the petitioner.

14       NEW SECTION.    **Sec. 5.**    A new section is added to chapter 9.41 RCW  
15 to read as follows:

16        The following additional times shall be added to the standard  
17 sentence range:

18        (1) Thirty-six months for any person who possesses a firearm  
19 while committing a crime;

20        (2) Seventy-two months for any person who brandishes a firearm  
21 while committing a crime; and

22        (3) One hundred eight months for any person who discharges a  
23 firearm while committing a crime.

24       NEW SECTION.    **Sec. 6.**    The attorney general may initiate a civil  
25 or criminal action for a violation of section 3 of this act.

26       NEW SECTION.    **Sec. 7.**    If any provision of this act or its  
27 application to any person or circumstance is held invalid, the  
28 remainder of the act or the application of the provision to other  
29 persons or circumstances is not affected.

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