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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

Read first time 01/12/16. Referred to Committee on Judiciary.

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

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

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

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

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

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

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

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

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

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

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

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

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

30       (1) The fees required to be collected by the seller under section  
31 2 of this act are deemed to be held in trust by the seller until paid  
32 to the department of revenue, and any seller who appropriates or  
33 converts the fees collected to his or her own use or to any use other  
34 than the payment of the fees to the extent that the money required to  
35 be collected is not available for payment on the due date as  
36 prescribed in this chapter is guilty of a gross misdemeanor.

37       (2) If any seller fails to collect the fees imposed under section  
38 2 of this act or having collected the fees, fails to pay the  
39 collected fees to the department of revenue in the manner prescribed

1 in section 2 of this act, whether such failure is the result of his  
2 or her own acts or the result of acts or conditions beyond the  
3 seller's control, the seller is nevertheless, personally liable to  
4 the state for the amount of the fees.

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

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

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

16 (a) Beginning in fiscal year 2000, the state treasurer must  
17 transfer into the county criminal justice assistance account from the  
18 general fund the sum of twenty-three million two hundred thousand  
19 dollars divided into four equal deposits occurring on July 1, October  
20 1, January 1, and April 1. For each fiscal year thereafter, the state  
21 treasurer must increase the total transfer by the fiscal growth  
22 factor, as defined in RCW 43.135.025, forecast for that fiscal year  
23 by the office of financial management in November of the preceding  
24 year.

25 (b) Fifty percent of receipts from the fee authorized in section  
26 2 of this act must be deposited into the county criminal justice  
27 assistance account, subject to distribution under this section.

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

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

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

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

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

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

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

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

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

16 (iv) Distributions and eligibility for distributions in the  
17 1989-1991 biennium must be based on 1988 figures for both the crime  
18 rate as described under (b)(ii) of this subsection and the annual  
19 number of criminal cases that are filed as described under (b)(iii)  
20 of this subsection. Future distributions must be based on the most  
21 recent figures for both the crime rate as described under (b)(ii) of  
22 this subsection and the annual number of criminal cases that are  
23 filed as described under (b)(iii) of this subsection.

24 (3) Moneys distributed under this section must be expended  
25 exclusively for criminal justice purposes and may not be used to  
26 replace or supplant existing funding. Criminal justice purposes are  
27 defined as activities that substantially assist the criminal justice  
28 system, which may include circumstances where ancillary benefit to  
29 the civil or juvenile justice system occurs, and which includes (a)  
30 domestic violence services such as those provided by domestic  
31 violence programs, community advocates, and legal advocates, as  
32 defined in RCW 70.123.020, and (b) during the 2001-2003 fiscal  
33 biennium, juvenile dispositional hearings relating to petitions for  
34 at-risk youth, truancy, and children in need of services. Existing  
35 funding for purposes of this subsection is defined as calendar year  
36 1989 actual operating expenditures for criminal justice purposes.  
37 Calendar year 1989 actual operating expenditures for criminal justice  
38 purposes exclude the following: Expenditures for extraordinary events  
39 not likely to reoccur, changes in contract provisions for criminal

1 justice services, beyond the control of the local jurisdiction  
2 receiving the services, and major nonrecurring capital expenditures.

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

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

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

20 **Sec. 5.** RCW 82.14.330 and 2011 1st sp.s. c 50 s 972 are each  
21 amended to read as follows:

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

35 (i) Twenty percent appropriated for distribution must be  
36 distributed to cities with a three-year average violent crime rate  
37 for each one thousand in population in excess of one hundred fifty  
38 percent of the statewide three-year average violent crime rate for  
39 each one thousand in population. The three-year average violent crime

1 rate must be calculated using the violent crime rates for each of the  
2 preceding three years from the annual reports on crime in Washington  
3 state as published by the Washington association of sheriffs and  
4 police chiefs. Moneys must be distributed under this subsection  
5 (1)(a) ratably based on population as last determined by the office  
6 of financial management, but no city may receive more than one dollar  
7 per capita. Moneys remaining undistributed under this subsection at  
8 the end of each calendar year must be distributed to the criminal  
9 justice training commission to reimburse participating city law  
10 enforcement agencies with ten or fewer full-time commissioned patrol  
11 officers the cost of temporary replacement of each officer who is  
12 enrolled in basic law enforcement training, as provided in RCW  
13 43.101.200.

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

17 (b) Fifty percent of receipts from the fee authorized in section  
18 2 of this act must be deposited into the municipal justice assistance  
19 account and distributed to cities with a three-year average violent  
20 crime rate for each one thousand in population in excess of one  
21 hundred fifty percent of the statewide three-year average violent  
22 crime rate for each one thousand in population. The three-year  
23 average violent crime rate must be calculated using the violent crime  
24 rates for each of the preceding three years from the annual reports  
25 on crime in Washington state as published by the Washington  
26 association of sheriffs and police chiefs. Moneys must be distributed  
27 under this subsection (1)(b) ratably based on population as last  
28 determined by the office of financial management, but no city may  
29 receive more than one dollar per capita. Moneys remaining  
30 undistributed under this subsection at the end of each calendar year  
31 must be distributed to cities ratably based on population for  
32 expenditure according to (d)(ii) of this subsection (1).

33 (c) The moneys deposited in the municipal criminal justice  
34 assistance account for distribution under this subsection (1) must be  
35 distributed at such times as distributions are made under RCW  
36 82.44.150.

37 ((+e+)) (d)(i) Moneys distributed under this subsection (1), with  
38 the exception of any moneys remaining undistributed at the end of the  
39 calendar year in (b) of this subsection (1), must be expended  
40 exclusively for criminal justice purposes and may not be used to

1 replace or supplant existing funding. Criminal justice purposes are  
2 defined as activities that substantially assist the criminal justice  
3 system, which may include circumstances where ancillary benefit to  
4 the civil justice system occurs, and which includes domestic violence  
5 services such as those provided by domestic violence programs,  
6 community advocates, and legal advocates, as defined in RCW  
7 70.123.020. Existing funding for purposes of this subsection is  
8 defined as calendar year 1989 actual operating expenditures for  
9 criminal justice purposes. Calendar year 1989 actual operating  
10 expenditures for criminal justice purposes exclude the following:  
11 Expenditures for extraordinary events not likely to reoccur, changes  
12 in contract provisions for criminal justice services, beyond the  
13 control of the local jurisdiction receiving the services, and major  
14 nonrecurring capital expenditures.

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

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

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

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

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

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

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

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

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

34 NEW SECTION. **Sec. 6.** Sections 2 and 3 of this act apply to the  
35 sale of ammunition sold on or after July 1, 2016.

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