## HOUSE BILL 2020

## State of Washington 63rd Legislature 2013 Regular Session

**By** Representatives Shea, Overstreet, Taylor, Condotta, Holy, Scott, Pike, Schmick, Haler, Harris, and Kristiansen

Read first time 03/28/13. Referred to Committee on Judiciary.

1 AN ACT Relating to expanding economic development and creating jobs 2 by increasing the availability of ammunition and firearm parts and accessories in Washington state; amending RCW 7.72.030; adding new 3 4 sections to chapter 82.04 RCW; adding a new section to chapter 84.36 RCW; adding a new section to chapter 19.02 RCW; adding a new section to 5 6 chapter 23B.01 RCW; adding a new section to chapter 25.15 RCW; adding 7 a new section to chapter 43.330 RCW; adding a new chapter to Title 19 8 RCW; creating a new section; and declaring an emergency.

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

10 NEW SECTION. **Sec. 1.** The legislature recognizes that the people 11 of Washington state have reserved to themselves the individual right to in Article I, section 24, of the Washington state 12 bear arms 13 Constitution, which reads, "The right of the individual citizen to bear himself, or 14 arms in defense of the state, shall not be 15 impaired . . . . " The legislature finds that both the right to bear 16 arms and the safety and well-being of law-abiding citizens who possess 17 firearms are at serious risk if the people cannot obtain ammunition for their firearms. A reliable, adequate, and ongoing source of ammunition 18 is an indivisible and essential part of the right to bear arms. 19 The

people of Washington state who need small arms ammunition are almost 1 2 completely dependent upon a very limited number of manufacturers of 3 smokeless propellant, small arms primers, cartridge cases, and small 4 arms ammunition that are located in other states. The legislature also 5 recognizes that the availability of firearm parts and accessories are also necessary in order for the people to more effectively exercise б 7 their right to bear arms. The legislature intends by this act to 8 encourage the manufacture of smokeless propellant, small arms primers, 9 cartridge cases, and small arms ammunition and firearm parts and 10 accessories within the borders of Washington state to ensure a dependable, sufficient, and continuous availability of ammunition 11 12 components, and firearms ammunition, parts, and accessories, for the 13 people of Washington, and to expand economic development and create 14 jobs within Washington state.

15 <u>NEW SECTION.</u> Sec. 2. This act may be known and cited as the 16 Washington state firearms ammunition, parts, and accessories jobs act.

17 <u>NEW SECTION.</u> Sec. 3. The definitions in this section apply 18 throughout this chapter unless the context clearly requires otherwise: 19 (1) "Ammunition components" means propellants, primers, and

20 cartridge cases.

(2) "Black powder" means a propellant made from potassium or sodium nitrate, charcoal, and sulfur or a substitute for black powder made differently that is used for conventional small arms or antique or replica arms.

(3) "Cartridge cases" means the casings that contain and hold together the propellant, primer, and bullet, which may be formed from brass, aluminum, steel, plastic, or some combination of those or other materials.

(4) "Firearm accessories" means items that connect to a small arm or are used to carry or load small arms ammunition and includes, but is not limited to, hand guards, scopes, magazines, clips, slings, and speed loaders.

(5) "Firearm parts" means the individual components used in the
manufacture of small arms and includes, but is not limited to, barrels,
frames, cylinders, chokes, stocks, grips, and forends.

(6) "Manufacturer of firearm ammunition, parts, or accessories"
 means a person or entity in this state engaged in the primary business
 of the manufacture of ammunition components, small arms ammunition,
 firearm parts, or firearm accessories.

5 (7) "Primary business" means a manufacturer in which more than one-6 half of its product produced is, and more than one-half of its gross 7 income comes from sales of, ammunition components, small arms 8 ammunition, firearm parts, or firearm accessories.

9

(8) "Propellant" includes smokeless propellant and black powder.

10 (9) "Small arms" means pistols, revolvers, rifles, shotguns, and 11 other similar devices that are portable by one person, the possession 12 and use of which are protected by Article I, section 24, of the 13 Washington state Constitution.

14 (10) "Small arms ammunition" means the combination of ammunition 15 components into a projectile for use in small arms.

16 (11) "Small arms primers" means the priming component for a round 17 of ammunition intended for use in small arms that is usually made of a 18 cup, an anvil, and a shock-sensitive chemical compound and is designed 19 to ignite the propellant in an ammunition cartridge for conventional 20 small arms.

(12) "Smokeless propellant" means a chemical substance designed to
 expel a projectile from small arms through burning and expansion at a
 quick but controlled burning rate.

24 <u>NEW SECTION.</u> Sec. 4. (1) A manufacturer of firearms ammunition, 25 parts, or accessories that meets the conditions in subsection (2) of 26 this section is exempt from:

(a) The business and occupation tax imposed under chapter 82.04
RCW, as provided in section 6 of this act;

(b) Property taxes imposed under Title 84 RCW, as provided insection 8 of this act; and

31 (c) Business license fees, as provided in sections 9 through 11 of 32 this act.

(2) A manufacturer of firearm ammunition, parts, or accessories is
 exempt from taxation and fees as provided under subsection (1) of this
 section if the manufacturer meets the following conditions:

(a) The products of the manufacturer are and remain available to
 commercial and individual consumers in the state;

1 (b) The manufacturer sells its products to in-state commercial and 2 individual consumers for a price no greater than that for out-of-state 3 purchasers, including any products that leave the state regardless of 4 destination or purchaser; and

5 (c) The manufacturer does not enter into any agreement or contract 6 that could actually or potentially require or commit all of its 7 production to out-of-state consumers, or interfere with or prohibit 8 sales or the provision of its products to in-state consumers.

9 <u>NEW SECTION.</u> Sec. 5. Only Washington state and the department of 10 ecology may regulate the chemicals used to manufacture ammunition 11 components and any use of those chemicals for such purposes may not be 12 regulated in the state by any agency of the United States.

13 <u>NEW SECTION.</u> Sec. 6. A new section is added to chapter 82.04 RCW 14 to read as follows:

15 (1) The tax imposed under this chapter does not apply to a 16 manufacturer of firearm ammunition, parts, or accessories.

17 (2) To qualify for the exemption under this section, a manufacturer 18 of firearm ammunition, parts, or accessories must meet the requirements 19 of section 4(2) of this act.

(3) "Manufacturer of firearm ammunition, parts, or accessories" has
the same meaning as provided in section 3 of this act.

22 <u>NEW SECTION.</u> Sec. 7. A new section is added to chapter 82.04 RCW 23 to read as follows:

(1) In computing tax there may be deducted from the measure of tax
by those engaged in banking, loan, security, or other financial
businesses, interest received on loans made to manufacturers of firearm
ammunition, parts, or accessories.

(2) "Manufacturer of firearm ammunition, parts, or accessories" has
 the same meaning as provided in section 3 of this act.

30 <u>NEW SECTION.</u> Sec. 8. A new section is added to chapter 84.36 RCW 31 to read as follows:

32 (1) Property owned and used by a manufacturer of firearm33 ammunition, parts, or accessories is exempt from tax.

(2) To qualify for the exemption under this section, a manufacturer
 of firearm ammunition, parts, or accessories must meet the requirements
 of section 4(2) of this act.

4 (3) "Manufacturer of firearm ammunition, parts, or accessories" has
5 the same meaning as provided in section 3 of this act.

6 <u>NEW SECTION.</u> Sec. 9. A new section is added to chapter 19.02 RCW 7 to read as follows:

8 Any person operating as a manufacturer of firearm ammunition, 9 parts, or accessories, as defined in section 3 of this act, in a manner 10 consistent with the requirements of section 4(2) of this act, is exempt 11 from fees imposed under this chapter.

12 <u>NEW SECTION.</u> Sec. 10. A new section is added to chapter 23B.01
13 RCW to read as follows:

Any corporation operating as a manufacturer of firearm ammunition, parts, or accessories, as defined in section 3 of this act, in a manner consistent with the requirements of section 4(2) of this act, is exempt from fees imposed under this chapter.

18 <u>NEW SECTION.</u> Sec. 11. A new section is added to chapter 25.15 RCW 19 to read as follows:

Any limited liability company operating as a manufacturer of firearm ammunition, parts, or accessories, as defined in section 3 of this act, in a manner consistent with the requirements of section 4(2) of this act, is exempt from fees imposed under this chapter.

24 **Sec. 12.** RCW 7.72.030 and 1988 c 94 s 1 are each amended to read 25 as follows:

(1) A product manufacturer is subject to liability to a claimant if the claimant's harm was proximately caused by the negligence of the manufacturer in that the product was not reasonably safe as designed or not reasonably safe because adequate warnings or instructions were not provided.

31 (a) A product is not reasonably safe as designed, if, at the time 32 of manufacture, the likelihood that the product would cause the 33 claimant's harm or similar harms, and the seriousness of those harms, 34 outweighed the burden on the manufacturer to design a product that

would have prevented those harms and the adverse effect that an 1 2 alternative design that was practical and feasible would have on the usefulness of the product: PROVIDED, 3 That a firearm ((or)), ammunition, or ammunition component made in Washington state shall not 4 be deemed defective in design on the basis that the benefits of the 5 product do not outweigh the risk of injury posed by its potential to 6 7 cause serious injury, damage, or death when discharged. The potential of a firearm or ammunition to cause serious injury, damage, or death 8 9 when discharged does not make the product defective in design, and injuries or damages resulting from the discharge of a firearm or 10 ammunition are not proximately caused by its potential to cause serious 11 injury, damage, or death, but are proximately caused by the actual 12 13 discharge of the product.

(b) A product is not reasonably safe because adequate warnings or instructions were not provided with the product, if, at the time of manufacture, the likelihood that the product would cause the claimant's harm or similar harms, and the seriousness of those harms, rendered the warnings or instructions of the manufacturer inadequate and the manufacturer could have provided the warnings or instructions which the claimant alleges would have been adequate.

21 (c) A product is not reasonably safe because adequate warnings or 22 instructions were not provided after the product was manufactured where 23 a manufacturer learned or where a reasonably prudent manufacturer 24 should have learned about a danger connected with the product after it was manufactured. In such a case, the manufacturer is under a duty to 25 26 act with regard to issuing warnings or instructions concerning the 27 danger in the manner that a reasonably prudent manufacturer would act in the same or similar circumstances. This duty is satisfied if the 28 manufacturer exercises reasonable care to inform product users. 29

30 (2) A product manufacturer is subject to strict liability to a 31 claimant if the claimant's harm was proximately caused by the fact that 32 the product was not reasonably safe in construction or not reasonably 33 safe because it did not conform to the manufacturer's express warranty 34 or to the implied warranties under Title 62A RCW.

35 (a) A product is not reasonably safe in construction if, when the 36 product left the control of the manufacturer, the product deviated in 37 some material way from the design specifications or performance

р. б

standards of the manufacturer, or deviated in some material way from
 otherwise identical units of the same product line.

3 (b) A product does not conform to the express warranty of the 4 manufacturer if it is made part of the basis of the bargain and relates 5 to a material fact or facts concerning the product and the express 6 warranty proved to be untrue.

7 (c) Whether or not a product conforms to an implied warranty
8 created under Title 62A RCW shall be determined under that title.

9 (3) In determining whether a product was not reasonably safe under 10 this section, the trier of fact shall consider whether the product was 11 unsafe to an extent beyond that which would be contemplated by the 12 ordinary consumer.

13 <u>NEW SECTION.</u> Sec. 13. A new section is added to chapter 43.330
14 RCW to read as follows:

department, the county-designated associate 15 The development 16 organization, the small business development center, and impact 17 Washington must provide technical assistance if requested by a 18 manufacturer of firearm ammunition, parts, or accessories, as defined in section 3 of this act. The technical assistance provided must be 19 20 responsive to the request and may include the provision of market 21 intelligence and research, business planning, information on available financing tools, or the resolution of siting, regulatory, or licensing 22 23 requirements.

24 <u>NEW SECTION.</u> Sec. 14. Sections 1 through 5 of this act constitute 25 a new chapter in Title 19 RCW.

NEW SECTION. Sec. 15. If any part of this act is found to be in 26 27 conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of 28 this act is inoperative solely to the extent of the conflict and with 29 30 respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to 31 32 the agencies concerned. Rules adopted under this act must meet federal 33 requirements that are a necessary condition to the receipt of federal 34 funds by the state.

1 <u>NEW SECTION.</u> Sec. 16. This act is necessary for the immediate 2 preservation of the public peace, health, or safety, or support of the 3 state government and its existing public institutions, and takes effect 4 immediately.

--- END ---