



## King County

### King County Board of Health

#### Staff Report

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Agenda item No: 8

Date: October 18, 2018

Rule & Regulation No.: BOH18-04

Prepared by: Andrew Kim

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#### **Subject**

A rule and regulation related to disclosure of information on health risks related to firearms, adding a new chapter to Title 23 to the Board of Health Code and prescribing penalties.

#### **Summary**

Proposed rule and regulation BOH18-04 would require firearm dealers, at the time of sale and transfer of firearms, to post a sign that would inform the purchaser and/or transferee, that the presence of a firearm in the home significantly increases the risk of suicide, homicide, death during domestic violence disputes and unintentional deaths to children, household members and others. The sign would also provide a contact information for the National Suicide Prevention Lifeline. The proposed rule and regulation would also require operators of shooting sports facilities to post the sign for its customers.

Proposed rule and regulation BOH18-04 would subject the firearm dealer and operator of a shooting sports facility to a civil penalty of up to one hundred dollars for each day the warning sign is not posted. The Director of Public Health – Seattle & King County is authorized to enforce this rule and regulation. The Director of Public Health – Seattle & King County is also required to have a downloadable sign, translated in the top 10 languages of the county, available on the county website for firearm dealers and operators of shooting sports facilities.

There are approximately 236 Federal Firearms License (FFL) holders and approximately 17 shooting sports facilities in King County that would be impacted by the proposed rule and regulation. Public Health staff estimate that approximately \$263,289 and 1.25 FTE would be needed to enforce the proposed rule and regulation and they currently do not have appropriation authority to cover the costs. Public Health staff indicate that enforcement of the proposed rule and regulation would include two sites visits where the first visit would be an education-based visit informing business owners of the signage requirement and providing the signage, and the second visit would ensure signage is posted, and if it is not posted then the citation and fine would be issued.

Amendment 1 has been prepared to modify the contact information on the warning sign from the National Suicide Prevention Lifeline to Crisis Connections.

## Background

### *Firearm Death and Injuries*

In 2018, through August 2018, there have been 39,436 incidents of gun violence nationally, including 9,882 firearms related deaths in the United States, which averages to about 40 gun related deaths per day.<sup>1</sup> Since January 2013, there have been 25 mass shootings that have occurred in Washington State, that have resulted in 47 persons being killed and 71 being wounded.<sup>2</sup>

The latest Washington State Department of Health (WSDOH) data show that in 2015, firearms were the third leading cause of injury-related death in the state, killing approximately 714 Washington residents. Of these firearm deaths, 75 percent were suicides and firearm suicides accounted for 47 percent of all suicides in the state in 2015. During the same period, 146 King County residents died from a firearm injury, including 6 youth ranging in age of seventeen and younger. In addition, according to the 2015 Washington Association of Sheriffs and Police Chiefs Annual Report, 62 percent of homicides in Washington State were committed with firearms.<sup>3</sup>

According to the Pacific Northwest Suicide Resource Center, firearms were the leading method of suicide for both males and females in the United States and, despite having a much lower suicide rate overall, the firearm suicide rate in the United States is six times that of other high-income countries. The Center also notes that the King County suicide rate has increased by about 18 percent in the last decade.<sup>4</sup>

The WSDOH data also indicate that 308 Washington State residents were hospitalized for nonfatal firearm injuries in 2015, including 30 youths ranging in age of seventeen and younger. During that same period, 95 King County residents were hospitalized for nonfatal firearm injuries, including 9 youth.<sup>5</sup>

The January 21, 2014 Annals of Internal Medicine report finds that adolescents, between the ages of ten and nineteen years, with access to firearms are 2.6 times as likely to die by suicide as adolescents without access to firearms. The December 2008 Journal of Adolescent Health study of adolescent (between the ages of ten and nineteen years) suicides by firearm found that over half were carried out with firearms from the adolescent's home. More than 75 percent of firearms

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<sup>1</sup> Gun Violence Archive, <http://www.gunviolencearchive.org/>.

<sup>2</sup> Gun Violence Archive, <http://www.gunviolencearchive.org/reports/mass-shooting>.

<sup>3</sup> Public Health – Seattle & King County: Guns in our community, <https://www.kingcounty.gov/depts/health/violence-injury-prevention/violence-prevention/gun-violence/LOK-IT-UP/firearm-facts.aspx>. Accessed September 8, 2018.

<sup>4</sup> Pacific Northwest Suicide Resource Center, Suicide Statistics, <http://depts.washington.edu/hiprc/suicide/stats/>.

<sup>5</sup> *Ibid.*

used in suicide attempts and unintentional injuries were stored in the residence of the victim, a relative, or friend.<sup>6</sup>

### ***Firearm Violence and Race***

According to various Public Health – Seattle & King County analysis on firearm violence in King County, firearm violence has a disproportionate impact on communities of color and children of color are victims of homicide by firearms at a higher rate than white children in King County.<sup>7</sup> According to a Washington State Office of Financial Management’s 2013 Research Brief, there were proportionately more firearm suicides among Whites and American Indian & Alaska Natives, however, more firearm homicides among Blacks and Latinxs; and essentially an even divide between firearm homicides and suicides among Asian-Americans.<sup>8</sup>

### ***Firearm Secure Storage***

A 2018 study, published by the American Journal of Public Health, evaluated the 2015 Washington State Behavioral Risk Factor Surveillance System data which included a broad survey of Washington State residents, and found that 34 percent of adults surveyed reported having a firearm in their households, of which, almost one-in-five reported that the firearms were not stored in a safe manner even when children were in the homes and the respondents suffered from depression and suicidal thoughts or were engaged in the significant consumption of alcohol.<sup>9</sup> The Washington State Behavioral Risk Factor Surveillance System data also finds that approximately 21 percent of King County adults reported firearms present in or around their homes. Among those adults, an estimated 31 percent stored their firearms loaded and an estimated 43 percent stored their firearms unlocked and not stored in a way to render them safe. Moreover, approximately 15 percent of firearm owners reported storing them loaded and unlocked.<sup>10</sup>

A June 2004 study from the American Journal of Epidemiology concluded that those persons with guns in the home were at greater risk than those without guns in the home of dying from homicide, firearm homicide, suicide and firearm suicide.<sup>11</sup> According to a February 2005 Journal

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<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> Washington State Office of Financial Management Research Brief No.71: Firearm Deaths in Washington State, April 2013. <https://www.ofm.wa.gov/sites/default/files/public/legacy/researchbriefs/2013/brief071.pdf>.

<sup>9</sup> Erin Renee Morgan, MS, Anthony Gomez, BS, and Ali Rowhani-Rahbar, MD, PhD, MPH, “Firearm Ownership, Storage Practices, and Suicide Risk Factors in Washington State, 2013–2016,” American Journal of Public Health, Research and Practice, May 17, 2018. <https://ajph.aphapublications.org/doi/10.2105/AJPH.2018.304403>.

<sup>10</sup> Public Health – Seattle & King County: Guns in our community, <https://www.kingcounty.gov/depts/health/violence-injury-prevention/violence-prevention/gun-violence/LOK-IT-UP/firearm-facts.aspx>. Accessed September 8, 2018.

<sup>11</sup> Dahlberg, Linda L., Ikeda, Robin M., Kresnow, Marcie-jo. (2004). Guns in the Home and Risk of a Violent Death in the Home: Findings from a National Study. *American Journal of Epidemiology*, Volume 160, Issue 10, November 15, 2004, Pages 929–936, <https://doi.org/10.1093/aje/kwh309>.

of the American Medical Association study, locked guns can reduce the odds of accidental death or suicide by seventy-three percent.<sup>12</sup>

### ***King County and City of Seattle Activities Related to Firearms***

The Violence and Injury Prevention Unit of the Public Health – Seattle & King County is tasked with taking a public health approach to help residents better understand how and when firearms are used unsafely, and then develop solutions that put an end to these preventable injuries and losses. The unit's primary activities include: (1) supporting a public awareness campaign around safe storage of guns, specifically through its Lok-It-Up program; (2) collecting data and identifying trends regarding firearm violence; and (3) educating stakeholders about laws in Washington and in other jurisdictions outside of Washington. Of note, in November 2017, the King County Council appropriated an additional \$100,000<sup>13</sup> to the Lok-It-Up program to support efforts to effectively disseminate information on safely securing firearms in homes.

Through the same appropriations ordinance<sup>14</sup>, the King County Council also appropriated \$282,000 and 2.0 FTEs to the KCSO and \$369,000 and 4.0 FTEs to the PAO to address the public safety risk related to firearm relinquishment and compliance in domestic violence and extreme risk protection order cases recommended by the Regional Team for Protection Orders and Order to Surrender Weapons. Relatedly, at its June 17, 2017 meeting, the Board of Health held a briefing to hear recommendations from the Regional Team for Protection Orders and Order to Surrender Weapons.<sup>15</sup>

In addition, at its October 1, 2018 meeting, the King County Council adopted the following four legislations related to firearms:

1. **Motion 15233:** Establishing a firearm safety task force to develop strategies to reduce the impact of firearm injury and death in King County through the identification and implementation of intervention strategies based on proven public health methodologies and requiring a report and implementation plan;
2. **Ordinance 18805:** Requiring the destruction of all forfeited firearms under the control of the sheriff's office;
3. **Motion 15234:** Requesting the executive to engage and collaborate with King County youth and young adults and their family members to develop a report on gun violence amongst youth and young adults; and
4. **Ordinance 18806:** Making it unlawful for any person in unincorporated King County to

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<sup>12</sup> Grossman, D.C., Mueller, B. A., Riedy, C., Dowd, M. D., Villavecies, A., Prodzinski, J. & et al. (2005). Gun storage practices and risk of youth suicide and unintentional firearm injuries. *Journal of the American Medical Association*, 293(6), 707-714.

<sup>13</sup> King County Ordinance 18602, enacted November 16, 2017.

<sup>14</sup> *Ibid.*

<sup>15</sup> King County Board of Health Briefing 17-B12.

keep a firearm, whether loaded or unloaded with ammunition, within any premise unless the firearm is safely stored in or using a secure firearm storage or safety device. Notwithstanding the foregoing, for purposes of this section, such firearm shall be deemed lawfully stored or lawfully kept if carried by or under the control of the owner, lawfully authorized user or law enforcement officer on duty and following the law enforcement officer's agency's policies.

In July 20, 2018, the City of Seattle enacted an ordinance related to the safe storage of and access to firearms.<sup>16</sup> The ordinance would prohibit an individual from storing or keeping a firearm in any premises, unless the firearm is secured in a locked container, properly engaged so as to render such weapon inaccessible or unusable to any person other than the owner or other lawfully authorized user. A violation would be a civil infraction. In addition, the ordinance would also issue a civil infraction to an individual if that individual knows or reasonably should know that a minor, an at-risk person, or a prohibited person is likely to gain access to the firearm, and also obtains the firearm.

### ***Washington State Initiative Measure No. 1639***

In July 2018, the Washington Secretary of State certified Initiative 1639 for the November 2018 General Election. The initiative would enact new state laws to implement firearm safety measures, including requiring enhanced background checks, waiting periods, and increased age requirements for semiautomatic assault rifles and secure gun storage for all firearms.<sup>17</sup> More specifically, the initiative would require firearm dealers to post a warning sign that an individual may face criminal prosecution if a firearm is left unsecured at a location where a person who is prohibited from possessing firearms can obtain possession. Attachment 5 to this staff report provides the text of Initiative 1639. The initiative underwent legal challenges concerning the proper formatting of the ballot initiative. However, the Washington State Supreme Court gave a final ruling on August 24, 2018 to keep Initiative 1639 in the November 2018 General Election.<sup>18</sup>

### ***Warning Signs Regarding Firearms in Other Jurisdictions***

According to the Giffords Law Center to Prevent Gun Violence, fifteen states require dealers to post and/or deliver written warnings to purchasers regarding the risks of storing firearms in a manner accessible to children. Those states include California, Connecticut, Florida, Maine, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, New York, North

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<sup>16</sup> City of Seattle Ordinance 125620,

<https://seattle.legistar.com/View.ashx?M=F&ID=6398548&GUID=463C4AFB-63F7-4D96-8BF1-66D302A7E675>.

<sup>17</sup> Washington State Secretary of State Kim Wyman News Release: Initiative 1639 concerning firearms certified for November ballot, July 27, 2018. <https://www.sos.wa.gov/office/news-releases.aspx#/news/1305>.

<sup>18</sup> The Supreme Court of Washington Order No. 96191-3 Robin Ball; the National Rifle Association, Alan Gottlieb and Julianne Hoy Versnel vs. Kim Wyman, Washington State Secretary of State and Safe Schools Safe Communities, August 24, 2018. (<https://assets.documentcloud.org/documents/4783734/Gun-Initiative-Order-8-24-2018.pdf>).

Carolina, Ohio, Texas, and Wisconsin. In California, dealers must post additional warnings, including those regarding the risk of lead exposure from firearms.<sup>19</sup> In addition, in December 2017, the City of New York adopted into law mandating a disclosure of gun violence information prior to issuing a license or permit for possession of a firearm.<sup>20</sup>

### ***Board of Health Code – Rule and Regulation***

According to Board of Health Code Section 2.04.140, the board may adopt, amend, or repeal any rule and regulation. A public hearing is required before any action of proposed rule and regulation, and the board is required to provide notice of the public hearing at least fourteen days prior to the date of action. Board members, public health officials or interested persons may initiate rulemaking by submitting proposals or recommendations for establishing, amending or repealing a rule and regulation to the local public health officer who shall be responsible for preparing them for board consideration.

### ***Summary of Proposed Rule and Regulation BOH18-04***

The following provides a summary of the proposed rule and regulation:

**Section 1:** Findings related to firearms and health;

**Section 2:** Adds a new Title 23 to the Board of Health Code;

**Section 3:** Adds sections 4 through 7 to be new chapters to Title 23;

**Section 4:** Declaration of the Board’s purpose and policy intent of pursuing the rule and regulation;

**Section 5:** Establishes the definition of key terms such as “dealer”, “firearm”, “sale”, and “transfer”;

**Section 6:** Requires firearm dealers, at the time of sale and transfer of firearms, to post a sign at the entrance of the site and at least one additional area where sale or transfer occur, that would inform the purchaser and/or transferee, that the presence of a firearm in the home significantly increases the risk of suicide, homicide, death during domestic violence disputes and unintentional deaths to children, household members and others. The sign would also provide a contact information for the National Suicide Prevention Lifeline. The sign must be on 8.5 inches x 11 inches paper in at least 30 point font type. The proposed rule and regulation would also require operators of shooting sports

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<sup>19</sup> Giffords Law Center to Prevent Gun Violence: Gun Dealers. <http://lawcenter.giffords.org/gun-laws/policy-areas/gun-sales/gun-dealers/>. Accessed September 12, 2018.

<sup>20</sup> 2017 New York City Local Law 236. Enacted December 1, 2017. <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3178255&GUID=A4059AE2-8336-4130-B1D3-898E3EF76980&Options=ID|Text|&Search=firearm>.

facilities to post the sign for its customers. The Director of Public Health – Seattle & King County is also required to have a downloadable sign, translated in the top 10 languages of the county, available on the county website for firearm dealers and operators of shooting sports facilities.

**Section 7:** Subject the firearm dealer or operator of a shooting sports facility to a civil penalty of up to one hundred dollars for each day the warning sign is not posted. The Director of Public Health – Seattle & King County is authorized to enforce this rule and regulation.

**Section 8:** States that if any provision of the proposed rule and regulation is invalid, the remaining provisions remains intact.

## **Analysis**

### ***Scope***

According to the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) August 2018 data, there are approximately 236 Federal Firearms License (FFL) holders in King County.<sup>21</sup> Based on Public Health staff analysis, this includes 93 unique businesses with possible retail addresses and 131 unique businesses with possible houses/residential addresses. The proposed rule and regulation defines “dealers” as a person engaged in the business of selling or transfer of firearms at wholesale or retail who has, or is required to have, a federal firearms license.

A definitive source that provides the number of shooting sports facilities in King County is unavailable. Based on various commercial data<sup>22</sup>, it is estimated that there are approximately 17 shooting sports facilities in King County, as defined by the proposed rule and regulation.

### ***Cost of Enforcement***

Public Health staff estimate that approximately \$263,289 and 1.25 FTE would be needed to enforce the proposed rule and regulation. This includes both FFL holders that list business addresses and FFL holders that list home addresses. Public Health staff state that approximately half of the FFL holders included home addresses as part of their license record. They predict that home address FFL holders would operate sales and transfers of firearms outside of the traditional brick and mortar business facility. In a separate scenario, Public Health staff also estimate that approximately \$217,801 and 1.0 FTE would be needed to enforce the proposed rule and regulation for only those FFL holders that have business addresses (brick and mortar facilities). Public Health staff state that they currently do not have appropriation authority for either cost scenarios.

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<sup>21</sup> Bureau of Alcohol, Tobacco, Firearms, and Explosives Federal Firearms Listings, <https://www.atf.gov/firearms/listing-federal-firearms-licensees>.

<sup>22</sup>Sources include <https://rangelistings.com/shooting-ranges/WA.html>, Google Maps, etc.

### ***Enforcement Approach***

Public Health staff indicate that enforcement would include two sites visits to business owners that are impacted by the proposed rule and regulation. The first visit would be an education-based visit informing business owners of the signage requirement and providing the signage. The second visit would ensure signage is posted, and if it is not posted then the citation and fine would be issued. Public Health estimates that approximately 25 percent of site visits will be non-compliant and will require additional visits. After the initial year of the program, Public Health would adjust the program costs and approach based on the non-compliance rate.

### ***Sample Signs***

Attachment 3 of the staff report includes a sample of the warning sign based on the requirements of the proposed rule and regulation. The sample is written in 30-point type on an 8.5 inches x 11 inches paper.

### ***Legal Review***

The Board's legal counsel (King County Prosecuting Attorney's Office) has reviewed the proposed rule and regulation.

### **Amendment**

Amendment 1 would modify the contact information on the warning sign from the National Suicide Prevention Lifeline to Crisis Connections. Attachment 4 of the staff report includes a sample of the warning sign which reflects the changes proposed by Amendment 1.

### **Invited**

1. Karyn Brownson, Community Safety/Gun Violence Prevention Manager, Public Health – Seattle & King County
2. Tony Gomez, Program Manager, Public Health – Seattle & King County

### **Attachments**

1. Proposed Rule and Regulation BOH18-04
2. Amendment 1
3. R&R BOH18-04 Warning Sign Sample
4. R&R BOH18-04 Warning Sign Sample with Amendment 1
5. Washington State Initiative Measure No. 1639, filed May 2, 2018