

1 EXPEDITE

2 No hearing set

3 Hearing is set

4 Date: _____

5 Time: _____

6 Judge: _____

7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
8 IN AND FOR THE COUNTY OF THURSTON

9 In Re:

10 BALLOT TITLE AND SUMMARY FOR
11 INITIATIVE NO. 1639

12 On behalf of PAUL KRAMER, an
13 individual, and SAFE SCHOOLS SAFE
14 COMMUNITIES, a Washington political
15 committee.

No. 18-2-02551-34

[PROPOSED] ORDER ON
PETITION TO APPEAL BALLOT
TITLE AND SUMMARY FOR
INITIATIVE NO. 1639

16 This matter came before the Court on the Petition to Appeal Ballot Title and Summary
17 for Initiative No. 1639 filed by Petitioners Paul Kramer and Safe Schools Safe Communities.

18 The Court considered the papers and pleadings filed in this matter, including:

- 19 1. Petition to Appeal Ballot Title and Summary for Initiative No. 1639;
- 20 2. Opposition to Petition to Appeal Ballot Title and Summary for Initiative No.
21 1639, if any;
- 22 3. Attorney General's Response to Petition Challenging Ballot Title and Summary
23 for Initiative Measure No. 1639, if any;
- 24 4. Petitioners' Reply Brief, if any;
- 25 5. _____;
- 26

27 [PROPOSED] ORDER ON PETITION TO APPEAL
BALLOT TITLE AND SUMMARY FOR INITIATIVE NO.
1639 - 1

1 6. _____

2 Based on the above and after hearing oral argument of the parties, the Court hereby
3 ORDERS that the ballot title and summary for Initiative No. 1639 shall read as follows:

4 **Ballot Title**

5 Initiative Measure No. 1639 concerns firearms.

6 This measure would require enhanced background checks, training, age
7 restrictions, and waiting periods for sales or delivery of semiautomatic assault
8 rifles; require secure gun storage that prevents unauthorized use; and enact
9 firearm-safety requirements.

10 **Ballot Measure Summary**

11 This measure would require enhanced background checks, safety training, and
12 waiting periods before semiautomatic assault rifles may be purchased or
13 delivered. It would impose age restrictions on purchase and possession of
14 semiautomatic assault rifles by persons under age 21. It would require use and
15 sales of secure gun storage/devices and impose criminal liability for unsafe
16 storage that results in unauthorized use. It would enact other firearm-related
17 requirements, including safety warnings, recordkeeping, and administrative fees.

18 DATED this _____ day of May, 2018.

19 _____
20 Thurston County Superior Court Judge / Commissioner

21 Presented by:

22 PACIFICA LAW GROUP LLP

23 

24 Gregory J. Wong, WSBA No. 39329

Nicholas W. Brown, WSBA No. 33586

Sarah S. Washburn, WSBA No. 44418

25 Attorneys for Petitioners Paul Kramer and
26 Safe Schools Safe Communities

27 [PROPOSED] ORDER ON PETITION TO APPEAL
BALLOT TITLE AND SUMMARY FOR INITIATIVE NO.
1639 - 2

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SUPERIOR COURT OF WASHINGTON FOR THURSTON COUNTY

RECEIVED)
 In the Matter of,)
 18 MAY 16 A9:32)
 THURSTON)
 SUPERIOR COURT)
 A CHALLENGE TO THE BALLOT)
 TITLE—STATEMENT OF SUBJECT,)
 CONCISE DESCRIPTION—AND BALLOT)
 MEASURE SUMMARY FOR INITIATIVE)
 1639, AN INITIATIVE TO THE PEOPLE)
)

FILED

MAY 16 2018

No. Superior Court
 Linda Myhre Enlow
 Thurston County Clerk
 18-2-02506-34

PETITION
 ORAL ARGUMENT
 REQUESTED

Pursuant to RCW 29A.72.080, petitioner Joe Wilson, hereby appeals the Ballot Title Statement of Subject, Concise Description –and Ballot Measure Summary issued by the Attorney General of the State of Washington for Initiative Measure No. 1639, An Initiative to the people (hereafter “I-1639”):

I. Parties

1. Petitioner Joe Wilson is a register voter in the state of Washington.

Petitioner Joe Wilson is a resident of Washington State.

2. Pursuant to RCW 29A.72.080, notice of this Petition is served upon the Secretary of State of the state of Washington and the Attorney General of the State of Washington.

II. JURISDICTION

3. The court has jurisdiction over the appeal pursuant to RCW 29A.72.080.

III. THE INITIATIVE

4. A copy of the text of I-1639 and the Attorney General's proposed ballot Title-statement of subject, concise statement—and ballot measure are attached as Exhibits A and B, respectively.

IV. THE ATTORNEY GENERAL'S BALLOT TITLE AND SUMMARY

5. On May 9, 2018, the Attorney General assigned the following Ballot

Title—Statement of Subject, Concise Description—Ballot Measure Summary;

BALLOT TITLE

Statement of Subject; Initiative Measure No. 1639 concerns firearms.

Concise Description; This measure would require enhanced background checks, training, and waiting periods for sales or delivery of semiautomatic assault rifles; criminalize certain storage and unauthorized use; impose age limitations; and enact other firearm-safety requirements.

BALLOT MEASURE SUMMARY

This measure would require enhanced background checks, firearm training, and waiting periods before semiautomatic assault rifles may be purchased or delivered. It would impose age limitations on who may purchase or possess certain firearms, including prohibiting firearm purchases by persons under age 21. It would require certain secured firearm storage or trigger-locks, and criminalize certain firearm storage if it results in unauthorized use. It would enact other firearm-related requirements, including certain warnings, recordkeeping, and fees.

6. The Statement of Subject is misleading, inaccurate and not impartial and should be changed and corrected to read; “Initiative Measure No. 1639 concerns Taxes and Individual Rights.”

7. Article I Section 24 of the Washington State Constitution Right to Bear Arms. The right of the individual citizen to bear arms in defense of himself, or the

state, shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain or employ an armed body of men.

8. The Attorney General's proposed Statement of Subject does not address that I-1639 applies a purchase fee which is a tax.

9. The Attorney General's proposed Statement of Subject does not address that I-1639 impairs an individual right to bear arms by requiring them to lock their arms up whereas said arms would be useless in a self-defense situation. Denies the right to bear arms to law abiding adults depending on age.

10. Petitioner submits that the Statement of Subject should be changed whereas recognizing that I-1639 concerns a new tax and that it impacts a right of the individual as outlined in the Washington State Constitution to bear arms in defense of himself as follows;

"Initiative Measure No. 1639 concerns Taxes and Individual Rights.

11. The Concise Description filed by the Attorney General fails on three grounds which the Secretary of State Initiative and Referenda Handbook describe as requirements for a Concise Description (relevant page attached as Exhibit C):

a.) It is not a true and impartial description of the measure essential content;

b.) It is not phrased to clearly identify the measure to be voted on;

c.) It is not phrased without prejudice for or against the measure.

12. The Attorney General's Concise Description is not a true and impartial description of the measure's essential content because it conceals from or does not inform voters that they are being asked to consider a tax for buying certain guns. Referring to the proposed Gun Tax as a fee is misleading. RCW 43.135.034(1)(b) specifically defines what I-1639 does: "For the purposes of this chapter, "raises taxes" means any action or combination of actions by the state legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund." I-1639 will certainly "increase state tax revenue" if this fee is implemented therefore, it is clearly a tax as defined by state law.

13. It cannot be found in the Attorney's General's Concise Description any reference that I-1639 would also raises revenue if implemented. Therefore the Concise Description is not a true and impartial description of the measure essential content and it is not phrased to clearly identify the measure to be voted on.

14. The sponsors of I-1639, the Alliance for Gun Responsibility (a political organization), describes its plan in I-1639 as "An ACT Relating to

increasing public safety by implementing firearm safety measures,". The firearm-safety rhetoric of the political organization behind I-1639 is repeated by the Attorney General in the Concise Description thus the Attorney General has phrased the Concise Description with prejudice for the measure as espoused by the political organization promoting I-1639 therefore the Concise Statement is not phrased without prejudice for or against the measure.

15. the Attorney General in not mentioning how I-1639 impacts the "Right to Bear Arms" as spelled out in the Washington State Constitution in Article I section 24 has not made the Concise Description a true and impartial description of the measure essential content.

16. Petitioner requests that the following be substituted for the Attorney General's proposed Concise Description for I-1639;
Concise Description; This measure would tax certain guns and restrict an individual citizen right to bear arms in defense of himself.

17. The Attorney General proposed Ballot Measure summary is inaccurate, misleading and otherwise inadequate because (a.) it repeats the use of the misleading rhetoric of the political organization promoting I-1639; (b.) It calls a tax a fee as defined by Washington state law; (c.) It does not even mention

the impact of I-1639 on the Right to Bear Arms as documented by the Washington State Constitution.

18. The petitioner requests that the following be substituted for the Ballot Measure Summary;

Ballot Measure Summary: This measure would tax the sale of certain guns. The right of the individual citizen to bear arms in defense of himself, or the state, would be impaired if this measure was to be implemented into law.

V. Relief Requested

Wherefore, Petitioner respectfully requests that this court grant the following relief:

(A.) that the court, pursuant to RCW 29A.72.080, file with the Secretary of State a certified copy of the Statement of Subject meeting the above objections, in the amended form recommended in this petition;

(B.) that the court, pursuant to RCW 29A.72.080, file with the Secretary of State a certified copy of the Concise Description meeting the above objections, in the amended form recommended in this petition;

(C.) that the court, pursuant to RCW 29A.72.080, file with the Secretary of State a certified copy of the Ballot Measure Summary meeting the above

Exhibit A



Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON

Administration Division
PO Box 40100 • Olympia WA 98504-0100 • (360) 753-6200

May 9, 2018

The Honorable Kim Wyman
Elections Division
ATTN: Initiative and Referendum
PO Box 40220
Olympia, WA 98504-0220

Re: Initiative No. 1639

Dear Secretary Wyman:

Pursuant to RCW 29A.72.060, we supply herewith the ballot title and ballot measure summary for Initiative No. 1639 to the People (an act relating to increasing public safety by implementing 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).

BALLOT TITLE

Statement of Subject: Initiative Measure No. 1639 concerns firearms.

Concise Description: This measure would require enhanced background checks, training, and waiting periods for sales or delivery of semiautomatic assault rifles; criminalize certain storage and unauthorized use; impose age limitations; and enact other firearm-safety requirements.

Should this measure be enacted into law? Yes [] No []

BALLOT MEASURE SUMMARY

This measure would require enhanced background checks, firearm training, and waiting periods before semiautomatic assault rifles may be purchased or delivered. It would impose age limitations on who may purchase or possess certain firearms, including prohibiting firearm purchases by persons under age 21. It would require certain secured firearm storage or trigger-locks, and criminalize certain firearm storage if it results in unauthorized use. It would enact other firearm-related requirements, including certain warnings, recordkeeping, and fees.

Sincerely,

ANNE E. EGELER
Deputy Solicitor General
(360) 753-7085