

The Honorable Ronald B. Leighton

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

DANIEL MITCHELL, ROBIN BALL,
LUKE RETTMER, ARMEN
TOOLOEE, NATHANIEL CASEY,
MATTHEW WALD, SECOND
AMENDMENT FOUNDATION, and
NATIONAL RIFLE ASSOCIATION,

Plaintiffs,

v.

CHUCK ATKINS, in his official
capacity as the Sheriff of Clark County,
Washington, CRAIG MEIDL, in his
official capacity as the Chief of Police
of Spokane, Washington, and TERESA
BERNTSEN, in her official capacity as
the Director of the Washington State
Department of Licensing,

Defendants.

NO. 3:19-cv-5106

DEFENDANT TERESA
BERNTSEN’S ANSWER
TO FIRST AMENDED
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

AND

AFFIRMATIVE DEFENSES

The Defendant, TERESA BERNTSEN, in her official capacity as the Director of the Department of Licensing, by and through ROBERT W. FERGUSON, Attorney General, and DIONNE PADILLA-HUDDLESTON, Assistant Attorney General, answers Plaintiffs’ First Amended Complaint for Declaratory and Injunctive Relief (First Amended Complaint). Except as hereinafter expressly admitted, qualified, or otherwise admitted, Defendant specifically denies

1 each and every allegation, statement, matter, and thing contained in the First Amended
2 Complaint including facts or allegations contained in Plaintiffs' headings or subheadings.
3 Defendant responds to the numbered allegations in the First Amended Complaint as follows:

4
5 **I. INTRODUCTION**

6 1. Paragraph 1 is Plaintiffs' characterization of the relief they seek and their legal
7 arguments to which no answer is required. To the extent a response is required, it is denied.

8 2. The Defendant denies that a copy of Washington State Initiative No. 1639, enacted
9 by voters on November 6, 2018, is attached to Plaintiffs' First Amended Complaint as Exhibit
10 A. The remainder of Paragraph 2 is Plaintiffs' characterization of their claims and legal
11 arguments to which no answer is required. To the extent a response is required, it is denied.

12 3. The Defendant denies that I-1639 "drastically rewrites" statutes governing purchase,
13 sale, and ownership of firearms in common use in the State of Washington. Rather, I-1639 was
14 a targeted effort to increase public safety and reduce gun violence. I-1639 requires an enhanced
15 background check prior to purchasing a semiautomatic assault rifle (similar to the one already
16 required for pistols), requires gun safety training, raises the age to purchase semiautomatic
17 assault rifles to 21, limits the sale of such weapons to residents of Washington, imposes a waiting
18 period for the purchase of semiautomatic assault rifles, and imposes penalties for unsafe firearm
19 storage that results in unauthorized access to and use of the firearm. The remainder of this
20 paragraph asserts legal conclusions that require no response. To the extent a response is required,
21 it is denied.
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24 4. The Defendant admits that Section 17 of I-1639 states: "This act takes effect July 1,
25 2019, except for section 13 of this act which takes effect January 1, 2019."
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II. JURISDICTION AND VENUE

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2 5. This paragraph asserts legal conclusions that require no response. To the extent a
3 response is required, it is denied.

4 6. This paragraph asserts legal conclusions that require no response. To the extent a
5 response is required, it is denied.

6
7 7. This paragraph asserts legal conclusions that require no response. To the extent a
8 response is required, it is denied. The Defendant also denies that the First Amended Complaint
9 asserts any state law claims.

10 8. The Defendant admits that venue is proper under 28 U.S.C. § 1391 and Local Civil
11 Rule 3(e).

12
13 **III. PARTIES**

14 9. The Defendant is without knowledge or information sufficient to form a belief as to
15 the truth of the allegations and, therefore, denies the same.

16 10. The Defendant is without knowledge or information sufficient to form a belief as to
17 the truth of the allegations and, therefore, denies the same.

18 11. The Defendant is without knowledge or information sufficient to form a belief as to
19 the truth of the allegations and, therefore, denies the same.

20 12. The Defendant is without knowledge or information sufficient to form a belief as to
21 the truth of the allegations and, therefore, denies the same.

22 13. The Defendant is without knowledge or information sufficient to form a belief as to
23 the truth of the allegations and, therefore, denies the same.

24 14. The Defendant is without knowledge or information sufficient to form a belief as to
25 the truth of the allegations and, therefore, denies the same.
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1 15. The Defendant is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations and, therefore, denies the same.

3 16. The Defendant is without knowledge or information sufficient to form a belief as to
4 the truth of the allegations and, therefore, denies the same.

5 17. The Defendant is without knowledge or information sufficient to form a belief as to
6 the truth of the allegations and, therefore, denies the same.

7 18. The Defendant is without knowledge or information sufficient to form a belief as to
8 the truth of the allegations and, therefore, denies the same.

9 19. The Defendant is without knowledge or information sufficient to form a belief as to
10 the truth of the allegations and, therefore, denies the same.

11 20. The Defendant is without knowledge or information sufficient to form a belief as to
12 the truth of the allegations and, therefore, denies the same.

13 21. The Defendant admits paragraph 21.

14 22. The Defendant is without knowledge or information sufficient to form a belief as to
15 the truth of the allegations and, therefore, denies the same.

16 23. The Defendant is without knowledge or information sufficient to form a belief as to
17 the truth of the allegations and, therefore, denies the same.

18 24. The Defendant is without knowledge or information sufficient to form a belief as to
19 the truth of the allegations and, therefore, denies the same.

20 25. The Defendant is without knowledge or information sufficient to form a belief as to
21 the truth of the allegations and, therefore, denies the same.

22 26. This paragraph asserts legal conclusions that require no response. To the extent a
23 response is required, it is denied. The Defendant is without knowledge or information sufficient
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1 to form a belief as to the truth of any implied allegation that SAF may properly assert
2 associational standing, and therefore denies the same.

3 27. The Defendant is without knowledge or information sufficient to form a belief as to
4 the truth of the allegations and, therefore, denies the same.

5 28. The Defendant is without knowledge or information sufficient to form a belief as to
6 the truth of the allegations and, therefore, denies the same.

7 29. The Defendant is without knowledge or information sufficient to form a belief as to
8 the truth of the allegations and, therefore, denies the same.

9 30. The Defendant is without knowledge or information sufficient to form a belief as to
10 the truth of the allegations and, therefore, denies the same.

11 31. The Defendant is without knowledge or information sufficient to form a belief as to
12 the truth of the allegations and, therefore, denies the same.

13 32. The Defendant is without knowledge or information sufficient to form a belief as to
14 the truth of the allegations and, therefore, denies the same.

15 33. This paragraph asserts legal conclusions that require no response. To the extent a
16 response is required, it is denied. The Defendant is without knowledge or information sufficient
17 to form a belief as to the truth of any implied allegation that the NRA may properly assert
18 associational standing, and therefore denies the same.

19 34. The Defendant admits paragraph 34.

20 35. Defendant admits that the First Amended Complaint names Chuck Atkins, in his
21 official capacity as the Sheriff of Clark County, Washington, as one of the Defendants. The
22 remainder of this paragraph asserts legal conclusions that require no response. To the extent a
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1 response may be required, the relevant state laws—although not specifically cited—speak for
2 themselves.

3 36. Defendant admits that the First Amended Complaint names Craig Meidl, in his
4 official capacity as the Chief of Police of Spokane, Washington, as one of the Defendants. The
5 remainder of this paragraph asserts legal conclusions that require no response. To the extent a
6 response may be required, the relevant state laws—although not specifically cited—speak for
7 themselves.
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9 37. The Defendant admits the First Amended Complaint names Teresa Berntsen, in her
10 official capacity as Director of the Washington State Department of Licensing, as one of the
11 Defendants. The remainder of this paragraph asserts legal conclusions that require no response.
12 To the extent a response may be required, the relevant state laws—although not specifically
13 cited—speak for themselves.
14

15 IV. FACT ALLEGATIONS

16 38. The Defendant admits paragraph 38.

17 39. The Defendant admits that Section 16 of I-1639 defines “semiautomatic assault rifle”
18 as “any rifle which utilizes a portion of the energy of a firing cartridge to extract the fired
19 cartridge case and chamber the next round, and which requires a separate pull of the trigger to
20 fire each cartridge.” The Defendant admits that people in Washington and throughout the United
21 States use semiautomatic assault rifles, but the subjective characterization of their use as
22 “common” does not require a response by way of factual pleading. The Defendant is without
23 knowledge or information sufficient to form a belief as to the truth of the remaining allegations
24 in this paragraph and, therefore, denies the same.
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1 40. The Defendant admits that people in Washington and throughout the United States
2 use semiautomatic assault rifles, but the subjective characterization of their use as “common”
3 does not require a response by way of factual pleading. To the extent that any further response
4 may be required, the Defendant denies paragraph 40.

5
6 41. The Defendant admits that paragraph 41 quotes RCW 9.41.240 as amended by
7 I-1639.

8 42. The Defendant admits that paragraph 42 quotes RCW 9.41.240 as amended by
9 I-1639.

10 43. The Defendant admits paragraph 43.

11 44. The Defendant is without knowledge or information sufficient to form a belief as to
12 the truth of the allegations and, therefore, denies the same.

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14 45. The Defendant is without knowledge or information sufficient to form a belief as to
15 the truth of the allegations and, therefore, denies the same.

16 46. The Defendant admits that licensed firearms dealers are required to comply with all
17 relevant state laws. The remainder of this paragraph asserts legal conclusions that require no
18 response. To the extent a response is required, it is denied.

19 47. This paragraph asserts legal conclusions that require no response. To the extent a
20 response is required, the relevant state laws—although not specifically cited—speak for
21 themselves.

22
23 48. The Defendant admits that on February 2, 2019, the Clark County Sheriff’s Office
24 Facebook page posted the statement quoted in paragraph 48.

25 49. The Defendant is without knowledge or information sufficient to form a belief as to
26 the truth of the allegations and, therefore, denies the same.

1 50. The Defendant is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations and, therefore, denies the same.

3 51. The Defendant admits that licensed firearms dealers are required to comply with all
4 relevant state law. The remainder of this paragraph asserts legal conclusions that require no
5 response. To the extent a response is required, the relevant state laws—although not specifically
6 cited—speak for themselves.

7 52. This paragraph asserts legal conclusions that require no response. To the extent a
8 response is required, the relevant state laws—although not specifically cited—speak for
9 themselves.

10 53. The Defendant is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations and, therefore, denies the same.

12 54. The Defendant is without knowledge or information sufficient to form a belief as to
13 the truth of the allegations and, therefore, denies the same.

14 55. The Defendant admits Teresa Berntsen is the Director of the Washington State
15 Department of Licensing and is being sued in her official capacity. The Defendant admits she is
16 obligated to act within the scope of Washington law. The Defendant admits that violations of
17 Washington laws may subject a firearms dealer to revocation of their license. The remainder of
18 this paragraph asserts legal conclusions that require no response. To the extent a response may
19 be required, the relevant state laws—although not specifically cited—speak for themselves.

20 56. The Defendant denies having formed any intent to take any specific action with
21 regard to the revocation of any specific license under hypothetical potential future circumstances.
22 This paragraph asserts speculation regarding potential future discovery, and requires no answer
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1 by way of factual pleading. To the extent any response may be required, the Defendant denies
2 the allegations set forth in this paragraph.

3 57. This paragraph asserts legal conclusions to which no answer is required. To the extent
4 a response is required, Defendant is without knowledge or information sufficient to form a belief
5 as to the truth of the allegations and, therefore, denies the same.

6 58. This paragraph asserts legal conclusions to which no answer is required. The
7 Defendant is without knowledge or information sufficient to form a belief as to the truth of the
8 allegations and, therefore, denies the same.

9 59. The Defendant is without knowledge or information sufficient to form a belief as to
10 the truth of the allegations and, therefore, denies the same.

11 60. The Defendant is without knowledge or information sufficient to form a belief as to
12 the truth of the allegations and, therefore, denies the same.

13 61. The Defendant is without knowledge or information sufficient to form a belief as to
14 the truth of the allegations and, therefore, denies the same.

15 62. The Defendant is without knowledge or information sufficient to form a belief as to
16 the truth of the allegations and, therefore, denies the same.

17 63. The Defendant is without knowledge or information sufficient to form a belief as to
18 the truth of the allegations and, therefore, denies the same.

19 64. The Defendant admits that Section 17 of I-1639 states: "This act takes effect July 1,
20 2019, except for section 13 of this act which takes effect January 1, 2019." Defendant is without
21 knowledge or information sufficient to form a belief as to whether or why an alleged sale did or
22 did not occur. The remainder of this paragraph asserts legal conclusions to which no answer is
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1 required. To the extent an answer may be required, the relevant state laws—although not
2 specifically cited—speak for themselves.

3 65. The Defendant is without knowledge or information sufficient to form a belief as to
4 the truth of the allegations and, therefore, denies the same.

5 66. This paragraph asserts legal conclusions that require no response. To the extent a
6 response is required, it is denied. The Defendant further clarifies that “young adults” used in this
7 paragraph refers to “Young Adult Plaintiffs” as used in paragraph 21.

8 67. This paragraph asserts legal conclusions that require no response. To the extent a
9 response is required, it is denied.

10 68. This paragraph asserts legal conclusions that require no response. To the extent a
11 response is required, it is denied. The Defendant further clarifies that “young adults” used in this
12 paragraph refers to “Young Adult Plaintiffs” as used in paragraph 21.

13 69. The Defendant admits that people in Washington and throughout the United States
14 use semiautomatic assault rifles, but the subjective characterization of their use as “common”
15 does not require a response by way of factual pleading. The Defendant also admits that
16 semiautomatic assault rifles are used by some people in Washington and in the United States in
17 a manner that complies with statutory requirements. The Defendant is otherwise without
18 knowledge or information sufficient to form a belief as to the truth of the allegations and,
19 therefore, denies the same.

20 70. The Defendant admits that people in Washington and throughout the United States
21 use semiautomatic assault rifles, but the subjective characterization of their use as “common”
22 does not require a response by way of factual pleading. The Defendant also admits that
23 semiautomatic assault rifles are used by some people in Washington and in the United States in
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1 a manner that complies with statutory requirements. The Defendant is otherwise without
2 knowledge or information sufficient to form a belief as to the truth of the allegations and,
3 therefore, denies the same.

4 71. This paragraph asserts legal conclusions to which no answer is required. To the extent
5 a response is required, Defendant is without knowledge or information sufficient to form a belief
6 as to the truth of the allegations and, therefore, denies the same.

7 72. The Defendant is without knowledge or information sufficient to form a belief as to
8 the truth of the allegations and, therefore, denies the same.

9 73. The Defendant is without knowledge or information sufficient to form a belief as to
10 the truth of the allegations and, therefore, denies the same.

11 74. The Defendant is without knowledge or information sufficient to form a belief as to
12 the truth of the allegations and, therefore, denies the same.

13 75. The Defendant is without knowledge or information sufficient to form a belief as to
14 the truth of the allegations and, therefore, denies the same.

15 76. The Defendant is without knowledge or information sufficient to form a belief as to
16 the truth of the allegations and, therefore, denies the same.

17 77. The Defendant admits I-1639 amended state laws governing firearms. The Defendant
18 admits that Section 17 of I-1639 states: “This act takes effect July 1, 2019, except for section 13
19 of this act which takes effect January 1, 2019.” Defendant is without knowledge or information
20 sufficient to form a belief as to whether or why an alleged sale did or did not occur. The
21 remainder of this paragraph asserts legal conclusions to which no answer is required. To the
22 extent a response is required, the relevant state laws—although not specifically cited—speak for
23 themselves.
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1 78. The Defendant is without knowledge or information sufficient to form a belief as to
2 the truth of the remaining allegations and, therefore, denies the same.

3 79. This paragraph asserts legal conclusions that require no response. To the extent a
4 response is required, it is denied. The Defendant further clarifies that “young adults” used in this
5 paragraph refers to “Young Adult Plaintiffs” as used in paragraph 21.
6

7 80. This paragraph asserts legal conclusions that require no response. To the extent a
8 response is required, it is denied.

9 81. This paragraph asserts legal conclusions that require no response. To the extent a
10 response is required, it is denied. The Defendant further clarifies that “young adults” used in this
11 paragraph refers to “Young Adult Plaintiffs” as used in paragraph 21.
12

13 82. The Defendant admits that people in Washington and throughout the United States
14 use semiautomatic assault rifles, but the subjective characterization of their use as “common”
15 does not require a response by way of factual pleading. The Defendant also admits that
16 semiautomatic assault rifles are used by some people in Washington and in the United States in
17 a manner that complies with statutory requirements. The Defendant is otherwise without
18 knowledge or information sufficient to form a belief as to the truth of the allegations and,
19 therefore, denies the same.
20

21 83. The Defendant admits that people in Washington and throughout the United States
22 use semiautomatic assault rifles, but the subjective characterization of their use as “common”
23 does not require a response by way of factual pleading. The Defendant also admits that
24 semiautomatic assault rifles are used by some people in Washington and in the United States in
25 a manner that complies with statutory requirements. The Defendant is otherwise without
26

1 knowledge or information sufficient to form a belief as to the truth of the allegations and,
2 therefore, denies the same.

3 84. This paragraph asserts legal conclusions to which no answer is required. To the extent
4 a response is required, Defendant is without knowledge or information sufficient to form a belief
5 as to the truth of the allegations and, therefore, denies the same.

6 85. The Defendant is without knowledge or information sufficient to form a belief as to
7 the truth of the allegations and, therefore, denies the same.

8 86. The Defendant is without knowledge or information sufficient to form a belief as to
9 the truth of the allegations and, therefore, denies the same.

10 87. The Defendant is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations and, therefore, denies the same.

12 88. The Defendant is without knowledge or information sufficient to form a belief as to
13 the truth of the allegations and, therefore, denies the same.

14 89. The Defendant is without knowledge or information sufficient to form a belief as to
15 the truth of the allegations and, therefore, denies the same.

16 90. The Defendant admits I-1639 amended state laws governing firearms. The Defendant
17 admits that Section 17 of I-1639 states: “This act takes effect July 1, 2019, except for section 13
18 of this act which takes effect January 1, 2019.” Defendant is without knowledge or information
19 sufficient to form a belief as to whether or why an alleged sale did or did not occur. The
20 remainder of this paragraph asserts legal conclusions to which no answer is required. To the
21 extent a response is required, the relevant state laws—although not specifically cited—speak for
22 themselves.
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1 91. The Defendant is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations and, therefore, denies the same.

3 92. This paragraph asserts legal conclusions that require no response. To the extent a
4 response is required, it is denied. The defendant further clarifies that “young adults” used in this
5 paragraph refers to “Young Adult Plaintiffs” as used in paragraph 21.
6

7 93. This paragraph asserts legal conclusions that require no response. To the extent a
8 response is required, it is denied.

9 94. This paragraph asserts legal conclusions that require no response. To the extent a
10 response is required, it is denied. The Defendant further clarifies that “young adults” used in this
11 paragraph refers to “Young Adult Plaintiffs” as used in paragraph 21.
12

13 95. The Defendant admits that people in Washington and throughout the United States
14 use semiautomatic assault rifles, but the subjective characterization of their use as “common”
15 does not require a response by way of factual pleading. The Defendant also admits that
16 semiautomatic assault rifles are used by some people in Washington and in the United States in
17 a manner that complies with statutory requirements. The Defendant is otherwise without
18 knowledge or information sufficient to form a belief as to the truth of the allegations and,
19 therefore, denies the same.
20

21 96. The Defendant admits that people in Washington and throughout the United States
22 use semiautomatic assault rifles, but the subjective characterization of their use as “common”
23 does not require a response by way of factual pleading. The Defendant also admits that
24 semiautomatic assault rifles are used by some people in Washington and in the United States in
25 a manner that complies with statutory requirements. The Defendant is otherwise without
26

1 knowledge or information sufficient to form a belief as to the truth of the allegations and,
2 therefore, denies the same.

3 97. This paragraph asserts legal conclusions to which no answer is required. To the extent
4 a response is required, Defendant is without knowledge or information sufficient to form a belief
5 as to the truth of the allegations and, therefore, denies the same.
6

7 98. The Defendant is without knowledge or information sufficient to form a belief as to
8 the truth of the allegations and, therefore, denies the same.

9 99. The Defendant is without knowledge or information sufficient to form a belief as to
10 the truth of the allegations and, therefore, denies the same.

11 100. The Defendant is without knowledge or information sufficient to form a belief as to
12 the truth of the allegations and, therefore, denies the same.
13

14 101. The Defendant is without knowledge or information sufficient to form a belief as to
15 the truth of the allegations and, therefore, denies the same.

16 102. The Defendant is without knowledge or information sufficient to form a belief as to
17 the truth of the allegations and, therefore, denies the same.

18 103. The Defendant admits I-1639 amended state laws governing firearms. The Defendant
19 admits that Section 17 of I-1639 states: “This act takes effect July 1, 2019, except for section 13
20 of this act which takes effect January 1, 2019.” Defendant is without knowledge or information
21 sufficient to form a belief as to whether or why an alleged sale did or did not occur. The
22 remainder of this paragraph asserts legal conclusions to which no answer is required. To the
23 extent a response is required, the relevant state laws—although not specifically cited—speak for
24 themselves.
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1 104. The Defendant is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations and, therefore, denies the same.

3 105. This paragraph asserts legal conclusions that require no response. To the extent a
4 response is required, it is denied. The defendant further clarifies that “young adults” used in this
5 paragraph refers to “Young Adult Plaintiffs” as used in paragraph 21.
6

7 106. This paragraph asserts legal conclusions that require no response. To the extent a
8 response is required, it is denied.

9 107. This paragraph asserts legal conclusions that require no response. To the extent a
10 response is required, it is denied. The Defendant further clarifies that “young adults” used in this
11 paragraph refers to “Young Adult Plaintiffs” as used in paragraph 21.
12

13 108. The Defendant admits that people in Washington and throughout the United States
14 use semiautomatic assault rifles, but the subjective characterization of their use as “common”
15 does not require a require a response by way of factual pleading. The Defendant also admits that
16 semiautomatic assault rifles are used by some people in Washington and in the United States in
17 a manner that complies with statutory requirements. The Defendant is otherwise without
18 knowledge or information sufficient to form a belief as to the truth of the allegations and,
19 therefore, denies the same.
20

21 109. The Defendant admits that people in Washington and throughout the United States
22 use semiautomatic assault rifles, but the subjective characterization of their use as “common”
23 does not require a response by way of factual pleading. The Defendant also admits that
24 semiautomatic assault rifles are used by some people in Washington and in the United States in
25 a manner that complies with statutory requirements. The Defendant is otherwise without
26

1 knowledge or information sufficient to form a belief as to the truth of the allegations and,
2 therefore, denies the same.

3 110. The Defendant is without knowledge or information sufficient to form a belief as to
4 the truth of the allegations and, therefore, denies the same.

5 111. The Defendant is without knowledge or information sufficient to form a belief as to
6 the truth of the allegations and, therefore, denies the same.

7 112. The Defendant is without knowledge or information sufficient to form a belief as to
8 the truth of the allegations and, therefore, denies the same.

9 113. The Defendant is without knowledge or information sufficient to form a belief as to
10 the truth of the allegations and, therefore, denies the same.

11 114. The Defendant admits that Section 12 of I-1639 limits the sale of semiautomatic
12 assault rifles to Washington residents. The Defendant admits that Section 12 of I-1639 takes
13 effect July 1, 2019. Defendant is without knowledge or information sufficient to form a belief as
14 to whether or why Plaintiff “has already taken steps to reduce inventory and to refuse requests
15 for special orders of self-loading rifles with longer delivery times.” The remainder of this
16 paragraph asserts legal conclusions to which no answer is required. To the extent a response is
17 required, the relevant state laws—although not specifically cited—speak for themselves.

18 115. This paragraph asserts legal conclusions that require no response. To the extent a
19 response is required, it is denied. To the extent this paragraph makes factual allegations, the
20 Defendant is without knowledge or information sufficient to form a belief as to the truth of the
21 allegations and, therefore, denies the same

22 **V. CAUSES OF ACTION**

23 116. The Defendant incorporates by references its answers to Paragraphs 1-115.
24

1 **A. Count I: Declaratory Relief That The Ban On Sales Of Self Loading Rifles To**
2 **Young Adults Impermissibly Impairs Rights Guaranteed By The Second**
3 **Amendment.**

4 117. This paragraph is Plaintiffs’ characterization of the relief they seek and their legal
5 arguments to which no answer is required. To the extent a response is required, it is denied.

6 118. This paragraph is Plaintiffs’ characterization of the relief they seek and their legal
7 arguments to which no answer is required. To the extent a response is required, it is denied.

8 119. This paragraph is Plaintiffs’ characterization of the relief they seek and their legal
9 arguments to which no answer is required. To the extent a response is required, it is denied.

10 **B. Count II: Declaratory Relief That The Ban On Sales Of Self-Loading Rifles To**
11 **Nonresident Purchasers Violates The Commerce Clause**

12 120. This paragraph is Plaintiffs’ characterization of the relief they seek and their legal
13 arguments to which no answer is required. To the extent a response is required, it is denied.

14 **C. Count III: Violation of Civil Rights (42 U.S.C. § 1983)**

15 121. The Defendant denies that Director Berntsen has stated an intent to enforce I-1639.
16 The Defendant further clarifies that “young adults” used in this paragraph refers to “Young Adult
17 Plaintiffs” as used in paragraph 21. Because the term “nonresidents” in this paragraph is not
18 defined, Defendant is without knowledge or information sufficient to form a belief as to the truth
19 of allegations relating to “nonresidents” and, therefore, denies the same. The Defendant is
20 without knowledge or information sufficient to form a belief as to the truth of the remaining
21 allegations and, therefore, denies the same.
22

23 122. This paragraph asserts legal conclusions that require no response. To the extent a
24 response is required, the relevant state laws—although not specifically cited—speak for
25 themselves.
26

1 123. This paragraph asserts legal conclusions that require no response. To the extent a
2 response is required, it is denied.

3 **VI. PRAYER FOR RELIEF**

4 124. This paragraph asserts Plaintiffs’ requested relief and legal conclusions that require
5 no response. To the extent a response is required, it is denied.

6 125. This paragraph asserts Plaintiffs’ requested relief and legal conclusions that require
7 no response. To the extent a response is required, it is denied.

8 126. This paragraph asserts Plaintiffs’ requested relief and legal conclusions that require
9 no response. To the extent a response is required, it is denied.

10 127. This paragraph asserts Plaintiffs’ requested relief and legal conclusions that require
11 no response. To the extent a response is required, it is denied.

12 **AFFIRMATIVE DEFENSES**

13
14 The Defendant’s affirmative defenses to the First Amended Complaint are set forth
15 below. By setting forth the following allegations and defenses, the Defendant does not assume
16 the burden of proof on the matter and issue other than those on which it has the burden of proof
17 as a matter of law.

- 18 1. The State of Washington and officials sued in their official capacity acting on
- 19 behalf of the State are immune from suit.
- 20 2. Plaintiffs have failed to exhaust administrative remedies and therefore the action
- 21 will not lie.
- 22 3. This Court lacks subject matter jurisdiction.
- 23 4. Plaintiffs lack standing to sue either individually or as associations.
- 24 5. Plaintiffs’ claims are moot and/or not ripe.
- 25 6. Plaintiffs have failed to state a claim upon which relief can be granted.
- 26

1 Defendant reserves the right to assert additional defenses and affirmative defenses as
2 established by the facts of this case. The Defendant also adopts and incorporates by reference
3 any and all other defenses asserted by any other defendant in this matter to the extent the
4 Defendant may share in such defense.

5 WHEREFORE, having fully answered Plaintiffs’ First Amended Complaint and having
6 asserted defenses and affirmative defenses, Defendant Teresa Berntsen, in her official capacity
7 as the Director of the Washington State Department of Licensing, respectfully requests that
8 Plaintiffs’ requested relief be denied, that Plaintiffs’ First Amended Complaint be dismissed with
9 prejudice, that the Defendant be awarded costs and reasonable attorney fees as may be provided
10 by statute or other law, and that the Court award such other relief as the Court deems just and
11 equitable.

12 DATED March 18, 2019.

13 ROBERT W. FERGUSON
14 Attorney General

15 /s/ Dionne Padilla-Huddleston
16 DIONNE PADILLA-HUDDLESTON, WSBA No. 38356
17 Assistant Attorney General
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PROOF OF SERVICE

I, hereby certify that on this 18th day of March 2019, I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 18th day of March 2019.

/s/ Jennifer Bancroft
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