

**HEARING ON
BILL 20-170
THE FIREARM INSURANCE AMENDMENT ACT OF 2013**

**BEFORE THE COMMITTEE ON
BUSINESS, CONSUMER, AND REGULATORY AFFAIRS**

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**ADDITIONAL COMMENTS OF TOM HARVEY
GUN INSURANCE BLOG
CONCERNING ISSUES ARISING IN THE HEARING
ON MAY 16, 2013**

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As someone who researches, writes about, and examines possible ways of implementing firearm insurance systems, I enthusiastically support Bill 20-170. I deeply appreciate the close attention the chairman and members of the Committee on Business, Consumer and Regulatory Affairs are giving to this issue and the opportunity that I had on May 16, 2013 to express my views at the hearing on the Firearm Insurance Amendment Act of 2013

My belief that firearm insurance can help provide protection to individuals residing in the District of Columbia stems from my role as a factory owner and manager for 30 years. To protect workers operating dangerous machinery, we received helpful oversight by the federal Occupational Safety and Health Administration. To protect everyone in our building, we received visits from the local fire department. We also carried private insurance, to protect ourselves, as a business necessity and because of government mandates. Based on the stricter yet sensible standards used by insurance professionals who visited our business, I came to have more faith in the ability of the insurance industry's private regulators to operate *pro-actively* to guard against actual risk than government regulators. Certainly the threat of potential increased costs or loss of insurance was as strong an incentive to avoid negligence as fines or lawsuits.

My interest in (a) promoting the virtues having this insurance in place, (b) describing ways to overcome the hurdles to do, and (c) considering models that will lead to the broadest benefits led me to create a blog on gun insurance <http://www.guninsuranceblog.com/>. However, I am not and never have been affiliated with an insurance company or other insurance industry business.

In these written comments, I will first give an overview of the national picture of firearm violence that has created the interest in firearm insurance as a partial remedy and as a form of remediation. Second, I will provide reasons why the adoption of The Firearm Insurance Amendment Act of 2013 will aid and protect residents of the District of Columbia. After that, I will address more technical aspects of the proposed law – including answers to questions asked by Council Members at the hearing and rebuttal to some of the statements made at the hearing by insurance representatives who oppose the bill.

Background on the Call for Firearm Insurance

The concept of firearm insurance has been discussed for decades. More and more analysts have come to think that firearm insurance is a potentially valuable way to deal with firearm violence. Today it is at the threshold of implementation, as evidenced by legislation introduced in nine states and the U.S. House of Representatives. In my view, the desirability of

mandatory firearm insurance has increased now that various state laws permit firearms to be legally carried--open or concealed--in more public venues (including bars in some states) and have more firepower, hence potential lethality, than previously. In addition, manufacturers are now marketing firearms to women and children which suggests that there will be more new gun owners and users.

In the DMV region, gun deaths topped motor vehicle deaths in 2010, according to the Violence Policy Center <http://www.vpc.org/studies/dmv.pdf>. In the District of Columbia, there were 99 firearm deaths, 84 of which were identified as homicides and 13 of which were identified as suicides. That same year, there were 38 motor vehicle deaths in the District.

While opponents of firearm insurance often focus on injuries and deaths associated with serious crime and gang activity, it is worth remembering that casualties can result from a variety of situations. According to FBI statistics, many more homicides stem from arguments than are related to felonies <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/tables/expanded-homicide-data-table-11>.

ANYONE CAN BE AT RISK, WHICH IS WHY FIREARM INSURANCE HAS PROPONENTS. The classic example has been one where a teenager accidentally puts out his friend's eye. Going beyond that, I have compiled a variety of illustrations from around the country but did not include suicide or law enforcement examples. (I am not arguing that even excellent firearm insurance would pay off in each case.)

Some types of recent shootings in the U.S.

**Accidental discharge.* Examples: A man was unzipping a 12-gauge shotgun case and the gun accidentally fired birdshot pellets, hurting three people who were taken to the hospital. A man was opening a box with a gun when it went off and hit his business partner sitting beside him who was taken to the hospital with non-life threatening injuries. A man was loading a .45 caliber semi-automatic gun and shot himself in the hand.

**Careless or negligent actions.* Examples: A teenager was shot when he, another teen and an adult were practicing shooting inside house and a round got into gun. A woman on a golf course was shot by a 22 rifle by a man who reported he was hunting squirrels. A man was arrested on manslaughter charges after he accidentally shot and killed his sister's boyfriend while they were looking at a gun.

**Results of target shooting outside a range.* Examples: A woman attending a children's party was shot but not by any one nearby. An investigation found the bullet had been fired during target practice from a location far away.

**Children and young people shooting guns.* Examples: A five-year-old boy killed his two-year-old sister with a single-shot "My First Rifle" gun at their house. A five-year-old boy was shot in the ankle by his 6-year-old sister who found a concealed, legal gun in their car. A two-year-old shot herself in the head at home. A sheriff's deputy was showing his gun collection to someone and briefly left a loaded pistol unattended. His wife was killed when his

four-year-old nephew grabbed the gun and it went off. Children also find their grandparents' firearms (in closets, etc.)

**People in the line of fire.* Examples: The first gun death in Maryland in 2013 was a 10-year-old girl from Cecil County who was hit by a bullet fired at random into the air just after midnight. An 8-year-old girl went to the hospital after she was struck by a stray bullet while in bed inside her apartment.

There are sites such as GunFAIL that give detailed descriptions from current media reports such as this one. It reads "Shepherdstown, West Virginia 5/19/13: Police said no one was injured, although the bullet ended up lodged in the wall near a table of patrons at the Domestic restaurant, 117 E. German St. Prior to firing the gun, the suspect—a heavy-set white male, age 20-25 and possibly having a first name of Eli—entered the apartment and encountered one of the residents living there, the release states. *'The suspect then produced a handgun. The resident retreated to his room as the suspect fired a shot that went through the floor and into the restaurant below. The bullet lodged in the wall near a table of patrons.'* The suspect then fled the area."

** Domestic and neighbor violence.* Examples: A couple was killed during an argument over dog feces. An NBA basketball star came for a scheduled visitation exchange of his son. An argument with the mother ensued and the player supposedly brandished a firearm and made threats but fortunately no shooting happened.

** Mistaken or correct assessment of whether one is at risk/self-defense.* Example: An intoxicated home owner shot a house guest and argued that without his glasses he thought she was an intruder. A pizza truck driver shot a teenager trying to rob him of a pizza. An apartment dweller said a man was banging loudly on his door and when he opened it the unruly man tried to force his way inside. The resident shot and wounded the man.

**General crime, felonies.* Example: A man was shot and killed during an apparent road rage incident following a minor traffic accident in an apartment parking lot.

**Homicide.* Examples: One mother died and another mother faces prison after their kids had a fight on the school bus and they met to settle a resulting argument. A 13-month-old baby was shot while riding in a stroller. Investigators believe the shooter was between 13 and 15 years old; he was with another boy between 10 and 12 years old.

For current national firearm shooting statistics, see Appendix A.

The Value of Firearm Insurance

Insurance is the way we deal, in our society, with potentially risky activities that can injure or kill. Think about car accidents and workplace injuries. Insurance companies can scrutinize and make sure that individuals act responsibly or face consequences. In the riskiest situations and with the riskiest firearm owners they will surely exercise the closest

supervision and could demand additional information and changes in behavior. This is similar to the manner in which auto insurance companies have gradually contributed to enhanced public safety. In short, insurance can be part of risk management.

Firearm insurance like any insurance that is mandated by government or required as a condition of doing business should be designed to protect those injured by an incident such as those illustrated above. Firearm insurance can protect the public by encouraging safe practices such as training and storage. It also can reflect market realities. Firearm insurance is helpful in a number of ways:

- Insurance offers some financial protection to victims of shootings
- Insurance oversight provides another layer of safety
- Insurance provides a disincentive to leaving firearms unlocked and loaded, losing track of one's firearms, and being careless with them which can lead to theft
- Insurance actuaries can assess the benefit/risk of new firearm designs and technologies or the risk of particular firearm owners, and price policies accordingly
- Insurance may “inhibit the possession of firearms by irresponsible people” (quote from 1987 law article by Professor Nelson Lund, George Mason University)

I am especially concerned with the first point. We can look at the benefits of firearm insurance using a famous incident. In 2006, Vice President Cheney shot at a bird and hit a hunting partner who was injured in the face, neck, and upper torso. Doctors had decided to leave up to 200 pieces of birdshot pellets lodged in his body. But then the victim suffered a minor heart attack and atrial fibrillation due to the shot pellets lodged in or near his heart. Additionally he experienced a collapsed lung. He underwent a cardiac catheterization test to detect blocked or leaky arteries. From the test, doctors found a single lead pellet. [Facts from Wikipedia]

While we know that in this case both the shooter and victim had financial resources to cover any expenses, what if both were low-income? What if the shooter did not have homeowner's insurance? With such high medical bills, taxpayers might have to pick up the victim's hospital expenses. Most existing liability insurance would cover only the shooter who is sued. When a victim is permanently disabled or has continuing damage, today that person is too much on his/her own. The District's proposed mandatory firearm insurance law would provide up to \$250,000 for that victim for medical costs, lost wages, or funerals, etc.

Erin Collins of the National Association of Mutual Insurance Companies, an industry representative, suggested that the Crime Victims Compensation be used to assist victims and since the cap is a low \$25,000 that it be raised if needed. The District is to be commended for having such a fund. However, using the Fund's money instead of proceeds from firearm insurance means that taxpayers are footing the costs which irresponsible gun owners should foot. The Fund is not insurance and should not let a financially responsible party off the hook. To give a parallel, those owning cars or airplanes, which have a reasonable expectation of risk attached and anticipated associated costs, cannot pass off damage costs to the Fund. The suggestion is also unfair. Many victims already compete for scarce funds in cases where no

potentially insured weapon is involved, e.g. victims of arson and rape.

Insurance contribution to safety

In order to limit their exposure to loss, insurers will take measures that will promote safety. They will ask prospective clients important questions such as:

- Are there underage or prohibited persons in the household, who may have access to the firearms?
- If so, are the locks and provisions such as safes to prevent improper access sufficient?
- How will the firearm be stored when the owner is not at home?
- Is the type of firearm appropriate for its intended defensive use?
- If the gun owner is no longer willing or able to properly store and use the firearm how will it be disposed of?

The insurer will have an incentive to require satisfactory answers to these and other questions both when the policy is first sold and on a continuing basis. All of them are important. For an example of the importance of the last question above, there was a case reported of a gun that killed a police officer in Brooklyn, NY in December, 2011. When the owner was traced, he said that he was evicted from his apartment, his belongings were boxed up and he had never returned for them.

The Virtues of Bill 20-170

The way the expanded insurance system is conceived provides a comprehensive approach to creating mandatory firearm insurance because:

- It covers shootings by persons other than the firearm owner
Many accidents and domestic shootings are by friends or family of the actual firearm owner.
- It covers willful acts by the firearm owner and others
It would be unjust if victims were protected in the case of negligent acts but had no protection from the more blameworthy willful acts.
- It provides for coverage until a lost or stolen firearm is reported
This encourages the very important reporting of missing firearms and covers cases where a found or stolen firearm immediately causes injury.
- It provides a realistic insurance limit
This can be sufficient for current medical costs in most cases and give support for survivors in the death of a family's provider.

It is my assertion that this bill should be adopted and the applicability to willful acts should be retained. There should also be simple changes to the specifications in the bill in order to enable it to cover more situations through negligence. My specific recommendations are at the end of this document.

A major problem is that guns get into the wrong hands. That is another reason this bill is helpful. The bill will require gun owners to promptly report lost or stolen guns. It will especially come into play in a situation where a gun is grabbed and injures a third party.

A More Technical Discussion of Aspects of Proposed Legislation

Mandatory Insurance Requirement

There is wide acceptance and even an expectation for mandatory insurance in our society. In addition to liability insurance for all kinds of vehicles—cars, boats, planes, snowmobiles etc.—there are bonds required for many activities such as contracting, erecting signs and in some places even a driveway permit. True, there are many who object to requiring insurance for guns, but this is unusual and illogical in the context of the public's usual demand for responsibility around dangerous activities. It is likely that the objections will die away very rapidly after required firearm insurance is adopted.

In Maryland a new requirement that owners of motor scooters have liability insurance went into effect in October 2012. This was adopted and went into effect with almost no publicity. Many owners were not even aware of the law change until after it was adopted, but even then there was no outcry. The cost of this insurance in my own case for a 2004 Yamaha scooter is \$222.82 per year, an amount comparable to the possible cost of the proposed gun insurance.

Mandated insurance exists to compensate victims and encourage safe practices. This is very different than liability insurance purchased to protect the insurance buyer. An insurance company representative commented at the hearing that no other jurisdiction has yet to mandate gun insurance and added: "We would suggest that this record is attributable to recognition of the fact that gun insurance mandates would not achieve their intended goal of reducing gun violence." Yet our experience with mandated insurance in other areas, such as motor vehicles and worker safety, shows that once engaged the insurance industry takes innovative and effective action to reduce losses. The Insurance Institute for Highway Safety and workplace inspections by insurers have been a major factor in the reduction of injuries and deaths in those contexts.

Most of the objections given by insurance industry spokespersons at the hearing only apply to voluntary insurance. Adverse selection does not occur with compulsory insurance because all gun owners will have the insurance. The reason that there is no current market for gun insurance, other than the very limited NRA insurance, is that gun owners are not required to have it.

Compulsory insurance is also helpful in addressing public policy objections to covering willful acts. If the existence of insurance is determined by the mandate, there is no possibility of an insured purchasing the insurance in anticipation of some harmful act. Another example of this principle in the case of insurance is that generally life insurance does not cover suicide for two years after purchase, but it often is effective immediately in the case of employer provided

insurance that has no voluntary contribution by the employee.

Willful Acts

Although context is important, a willful act is usually one where the result is intended by the actor. "Actor" means that someone other than the insured firearm owner may be the shooter. The actor may be deliberately causing harm such as firing a gun at a person knowing the gun was loaded. (Yet the victim still needs recourse and compensation. Insurance that is intended to protect victims must compensate third parties, who do not share in this intent.) Sometimes the actor is incompetent or a minor.

One of the most important albeit contentious portions of the bill is the mandated coverage of intentional acts. Here are some points about the value of including willful acts and then some responses to arguments made against including this type of shooting. Insurance covering willful acts will greatly increase the number of cases where insurance to help victims applies. This characteristic greatly increases the effectiveness in compensating victims and in promoting safe practices. It would be unjust if a shooter's culpable intention would disqualify an innocent victim for compensation otherwise available.

Insurance textbooks teach that whether an act is accidental or willful is determined from the viewpoint of the insured. This is necessary because the purpose of many kinds of insurance is to protect the insured against the willful acts of outsiders. An example would be a day care center that is negligent in screening visitors who might commit an abuse against a child. The insurance in this B20-170 is needed to protect victims and so the proper viewpoint for determination of any exclusion of willful acts is from the viewpoint of the victim. From that viewpoint, a shooting that is deliberate on the part of the firearm owner is an accident to the victim.

Insurance that pays to innocent victims for willful, intentional or even criminal acts is common when the purpose of the insurance is to protect third parties. Despite the statement in the hearing from an insurance industry representative-- "if you use your car as a weapon to intentionally run down a pedestrian or another motorist, there is no coverage", motor vehicle insurance in many states would in fact cover exactly that case. The case commonly cited in legal discussions to illustrate this point is [Wheeler v. O'Connell, 297 Mass. 549, 553 \(1937\)](#). This case held that compulsory insurance was very different than voluntary insurance, that public policy considerations did not prevent coverage of intentional acts, and that the insurance terms should be interpreted in light of the intention of the compulsory insurance law. Many later cases in various states have taken the same position even in situations where insured persons committed serious crimes including murder.

It was also stated in the hearing that insurance would not pay if a homeowner intentionally burned down his or her house. There are two types of mortgage clauses in homeowner's insurance. The most common type today is the "union" or "standard" or "New York" mortgage clause, which would pay a mortgagee such a case. My own homeowners insurance (USAA) has that clause stating:

If we deny your claim because you or any other “insured” has failed to comply with the terms and conditions of this policy that denial shall not apply to a valid claim of the mortgagee.

Standard insurance text books discuss this mortgage clause and point out that it is included specifically to pay lenders in cases of arson or other misbehavior on the part of the insured homeowner.

The point of these examples is that liability and other kinds of insurance can pay innocent third parties for intentional acts of otherwise insured parties. Mandatory firearm insurance should be designed like the examples above to protect the victims. Public policy, which is often said to prohibit such insurance, only prevents the malefactor from benefiting. In light of these and of many other kinds of insurance that pay innocent parties regardless of the intent of others, there is no problem with public policy for providing insurance covering willful acts. It may, however, be appropriate for insurance regulators to allow insurers to have subrogation clauses against the misfeasors themselves, to recover their money.

Let me address a practical point. I believe intentional acts can be immediately covered. Still, if coverage of willful acts is not initially adopted due to concerns about availability from insurance companies, here is a compromise solution. The coverage of negligence should go into effect immediately. And insurance should pay on negligent shootings that are intentional but not criminal. Payment on willful, negligent but not unlawful acts is possible and the cost is predictable. NRA self-defense insurance exists to cover just this situation. However, the coverage of willful or criminal acts would be *held in suspension* UNTIL such time as: (1) such insurance coverage is made available as a voluntary offering in D.C., or (2) any state requires mandated firearm insurance including coverage of willful or criminal acts and a market opens. Here is the second idea in more detail. If a state mandates firearm insurance that covers willful, intentional or criminal acts and an insurance company starts providing such coverage in that state, this circumstance will be a trigger. Firearm insurance in the District must then cover willful acts effective 180 days after the Commissioner of the Department of Insurance determines that any state has required and has available insurance covering such acts. At that time the District will *automatically*, without any new hearings or appeals, require insurance coverage of willful/intentional acts under the Firearm Insurance Amendment Act.

Negligent Acts

A negligent act is one where the “actor” fails the duty to take care not to injure others, in the way that a reasonably prudent person would. The harm could be foreseen. The victim could be physically harmed or otherwise injuriously affected by an act or omission. Someone other than the firearm owner may be the actor/shooter. Ordinarily the harm is inadvertent; the actor is not deliberately causing harm. For example, the owners of an unprotected swimming pool at their home do not mean for someone to drown but fail to build a fence or take other steps to prevent accidental drowning.

Current homeowners and other liability insurance normally covers negligent acts. Proof of negligence requires proof that the negligent person breached a duty of care resulting in an injury. Because the duties of firearm users and owners are not explicitly spelled out in District

of Columbia law, there could be controversy in some cases that results in delay and expense in compensating victims. This should be addressed with appropriate changes in the District of Columbia Municipal Code.

A presumption of negligence can be created in a way parallel to the development of negligence policy for motor vehicles. It is well known and taught in every driver's education class that in the case of a rear end collision the car hitting another from behind is responsible. This is established by legislation in some states and by judicial decision in others and is sometimes rebuttable but it is always the starting point. This came about because there is a generally recognized duty of drivers to allow sufficient space to vehicles in front and to allow for existing conditions. In the District of Columbia (DCMR 18.2201.9) there is a regulation for this matter, *"The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon and the condition of the roadway."* Negligence is often established by proof of the breach of the duty to obey this regulation.

The regulations of the District of Columbia (DCMR 18.2300.2) also state *"every operator of a vehicle shall exercise due care to avoid colliding with any pedestrians ..."* establishing a duty to avoid striking pedestrians.

In a similar way, possessors and users of firearms have a duty to keep their firearms under control. This legislation should establish a presumption of negligence in the common situations where that duty is breached around firearms by amending the firearms laws to require care to prevent these situations. The situations include:

- Unintended discharge of a firearm.
- A bullet striking a person who is not the intended target.
- A firearm passing into the hands of an underage or prohibited person.

Once such regulations are in effect they will give guidance to insurance adjusters and courts in assessing negligence.

Negligence in the context of lawful intentional acts or acts by others

Homeowners insurance typically excludes intentional acts even if they are not unlawful. An intentional act may be negligent in spite of its not being unlawful. A typical example is found in the widely publicized March 17, 2013 shooting death of a Sterling, VA Teenager, as it is portrayed in media accounts. A teenager, after drinking, returned home and mistakenly went into his neighbor's house and was shot by the homeowner who believed that he was a burglar or other intruder bent on serious harm. Although the full facts in this particular case are yet to be determined, it illustrates the common possibility that although a shooter may be negligent in ascertaining his target and civilly liable, at the same time he may not be criminally liable due to a mistaken belief that he is acting in justifiable self defense. Assuming that the shooter had homeowners insurance, the family of the victim will probably not collect because of the intentionality of the act even if the shooter is not charged with any crime.

Although there are no statistics available on incidents fitting this picture, anyone following media reports can find examples at least weekly. It is one of the situations that should be covered by insurance to protect the victims of shootings. Even without general coverage of willful acts, insurance should specify that lawful negligence leading to an intentional act be covered even if the act itself is excluded because of being intentional.

Another common situation is for a firearm owner to negligently fail to prevent an underage or prohibited person (such as a mentally ill or “career criminal” relative) from having access to that firearm. If the firearm is used willfully by this person, the negligence should be covered by the insurance.

Insurability

Insurance textbooks give conditions of insurability. At the hearing, Eric Goldberg of the American Insurance Association listed a set these and implied that the bill at hand did not meet them. I believe that with closer consideration it can be seen that none of these are a barrier to successful implementation of insurance through this bill. They are:

Measure the Risk

Current homeowners insurance covers most negligent harm that comes from firearms. The insurance industry has records from that insurance showing what claims and events have been related to firearms in the District of Columbia. Because both home ownership and firearm registration require a substantial level of effort and responsibility, it is likely that many of the legal firearm owners who might buy this insurance are also home owners and that both homeowner and non-homeowners have similar risks. This can easily be projected by actuaries to the entire group of licensed firearm owners. If intentional acts are also covered, it would be desirable that insurers be provided by the DC Government with information concerning homicides by licensed firearm owners.

The District of Columbia has much stricter regulation of firearms than the nation as a whole. This insurance by its nature will only be purchased by legal firearm owners. It is likely that the loss record for the firearm owners covered will be lower than the national experience because of that regulation.

Spread the Risk

The essential condition for spreading the risk is that losses not be grouped in a catastrophic way to such a degree that the financial stability of insurers is threatened. The size of the loss limit for the insurance is a factor in this. Because firearm incidents are the acts of individuals and because multiple victims in a single incident would likely be shot by the same firearm and included in the same limit, the claims would be grouped only by the normal working of chance. There is a sufficient size of the insured pool to allow the law of large numbers to be in effect over a couple of years span. This insurance would burden the capital resources of insurers to no greater extent than any other insurance of like limits.

Price the Risk

The insurance industry has extensive experience with the amount of judgments collected for deaths and injuries. They should be able to project the cost of claims for any anticipated level of incidents, even though the insurance representatives at the hearing said they could not. Peter Kochenburger, a University of Connecticut Law School professor and executive director of the Insurance Law Center, was interviewed by the Hartford Current. He noted that insurance is often used as a form of private regulation. In this case, liability insurance for firearms would create a pool of money to compensate victims of firearm violence. Insurance companies "have the ability to collect the data and they have the analytical approach to understand the risk," he said. "This is their business. They make money or lose money over time by their assessment of risk. They aggregate a lot of data and assess risk."

In addition, for willful acts we have experience of the pricing of the NRA's Self-Defense insurance described in Appendix B. Both the Excess Liability and the Self-Defense components are needed to cover intentional acts. While this excludes incidents where the covered person acted illegally, their price of \$212 to \$321 including the required excess liability insurance is likely to be higher than in the situation generated by B20-170 for two reasons: they have a near monopoly on this insurance and they sell the insurance only to a small self-selected group of firearm owners, exposing themselves to possible adverse selection.

If coverage of willful acts becomes effective due to its adoption in some other state, the experience of that state will help establish the proper premium rate in the District of Columbia. Recently, firearm insurance bills introduced in New York, Oregon, and North Carolina had willful acts under consideration.

While I do not pretend to be an actuary, I have sought to determine what potential losses and costs might be that will be factored into the price of firearm insurance. Here is some of what I have learned. Nationally, there are about 80,000 deaths and injuries from firearms each year. The [Pacific Institute for Research and Evaluation](#) (PIRE) calculates that the **average** medical cost is \$27,000 per firearm injury or death. Multiplying these numbers shows that firearm deaths and injuries cause a total of \$2.16 billion in annual medical costs.

NRA Self-Defense insurance is priced for each person and not based on any number of firearms. The NRA estimates in its 2011 Fact Card that there are 70-80 million firearm owners in this country. Dividing the medical costs by the number of firearm owners gives an average estimated cost per firearm owner of \$28.80. While this seems like a small number, it is the result of sharing the cost between a large number of firearm owners.

Law firms often use a rule of thumb of settling individual injury lawsuits for 5 times the medical cost. If we use that "rule," it brings the "settlement cost" up to an average of \$144 per firearm owner. If we add in insurance company expenses, reserves and generous profit, this could be \$288 per year (144.00 plus 100% overhead and profit is \$288.00). Note that this number is not very different than the NRA Self-Defense Insurance premiums given above. To put the cost in context, in 2010 liability insurance in DC costs on average \$613.96 per car.

If the legal firearms of the District of Columbia get a proportional share of deaths and injuries in comparison with the country as a whole, and even if the insurers pay out the entire policy limit in each case, the insurance will still be affordable. The calculations above indicate that the actual loss figures, although very important to the particular persons injured, will not justify an excessive cost for this insurance, whether or not intentional acts are covered. If most firearm insurance is provided in combination with householder's or renter's insurance, these costs will be minimized. It is important to note that this analysis only applies to the legal firearms in DC and assumes they are similar to legal firearms elsewhere.

Recommendations

1. The act should be adopted and go into effect 180 days after adoption.
2. Negligent acts should be covered by this insurance even if they are combined with an intentional shooting by the insured or another person and even if the act is in self-defense.
3. The insurance should cover willful acts to protect and compensate the greatest number of victims.
4. The language in the bill creating a presumption of ownership of lost or stolen firearms until such loss or theft is reported to the Metropolitan Police Department should be retained.
5. The District of Columbia Official Code should have language added to define certain duties of users and owners of firearms.
 - A. Every owner or user of a firearm shall exercise due care to insure that that the firearm is not unintentionally discharged.
 - B. Every owner or user of a firearm shall before and while discharging a firearm shall exercise due care to insure that no unintended person is struck by a projectile.
 - C. Every owner or person having custody of a firearm shall exercise due care to prevent any underage or prohibited person from having access to that firearm.
6. If this insurance cannot initially cover willful acts, effective 180 days after required firearm insurance covering willful acts is available in any state, coverage of willful acts should be added to the required insurance.

Appendix A – Firearm Statistics Sources

<http://www.nij.gov/topics/crime/gun-violence/> (Intimate partner violence can be fatal when a firearm is involved. From 1990 to 2005, two-thirds of spouse and ex-spouse homicide victims were killed by firearms.)

<http://www.theatlantic.com/national/archive/2013/02/gun-violence-in-america-the-13-key-questions-with-13-concise-answers/272727/> (There were 8,583 homicides by firearms in 2011, out of 12,664 homicides total, according to the FBI. This means that more than two-thirds of homicides involve a firearm. 6,220 of those homicides by firearm (72%) are known to have involved a handgun.)

<http://www.childrensdefense.org/child-research-data-publications/data/gun-deaths-by-state.pdf> (There were 309 firearm deaths of children and teens in DC between 2000 and 2010.)

<http://smartgunlaws.org/gun-deaths-and-injuries-statistics/> (In 2010, unintentional firearm injuries caused the deaths of 606 people.)

<http://www.nraila.org/news-issues/fact-sheets/2013/firearm-safety-in-america-2013.aspx?s=&st=&ps=> (The number of privately owned firearms in the U.S. is upwards of 300 million and now rises by about 10 million per year.)

<http://www.vpc.org/studies/justifiable.pdf> (In 2010, there were 230 justifiable homicides involving a private citizen using a firearm reported to FBI's Uniform Crime Reporting Program.)

Appendix B – NRA Excess Liability and Self-Defense insurance.

NRA Self-Defense insurance is an example of insurance which covers willful acts. It is not as extensive as the insurance in B20-170 because it has an exclusion for illegal acts but it shows that such insurance is possible. For this reason, it is described below.

The National Rifle Association offers affinity group insurance to its members exclusively. Their basic policy is not primary insurance but pays only secondary benefits to any homeowners or other insurance. The master policy is issued by Lloyd's directly to the NRA. Buyers get a [certificate of coverage](#). The insurance is administered by Lockton Affinity, Inc which functions to, collect the money and do the paperwork. The basic reason for having this structure is that the policy is only regulated by one state (VA, the NRA's headquarters) even though the insurance is sold in all states.

[NRA Excess Liability Insurance](#) only pays after any other insurance is exhausted. It only pays for unintentional injuries while hunting or engaging in practice supervised by an organization. It excludes injuries to related persons and covers only the individual purchasing it who need not own the firearm.

The annual premium for NRA Excess Liability coverage is \$47.00 for a limit of \$100,000 and \$67.00 for a limit of \$250,000. In addition the purchaser must pay an administrative fee of \$15 and pay for a membership in the NRA.

[NRA Self-Defense insurance](#) is a rider to the Excess Liability Insurance above with an additional [certificate of coverage](#). It relaxes the limit on intentional acts when undertaken in self defense and pays certain legal expenses. In order to be applicable, the shooter must break no laws.

The annual premium for NRA Self-Defense coverage is \$165.00 for a limit of \$100,000 and \$254.00 for a limit of \$250,000 in addition to the administrative fee and the cost of the Excess Liability insurance above. This results in a total yearly cost of \$227.00 for the lower limit or \$336.00 for the higher one.