

## **DC Bill 20-170, “Firearm Insurance Amendment Act of 2013”**

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On behalf of the members of the National Rifle Association in the District of Columbia and throughout the nation, I appreciate the opportunity to offer our views on this bill. As introduced, DC B20-170 would require a person in the District who owns a firearm to obtain and continuously maintain a policy of liability insurance in an amount of no less than \$250,000. The liability insurance policy would specifically need to cover any damages resulting from negligent acts, or willful acts that are not undertaken in self-defense, involving the use of the insured firearm while it is owned by the policy holder.

The National Rifle Association strongly opposes any sort of government mandate requiring gun owners to purchase liability insurance in order to own and possess a firearm. If enacted, Bill 20-170 would impose a burden on law-abiding gun owners who call the District of Columbia home. As you know, Washington, D.C. already has some of the strictest gun control laws in the nation, yet consistently has one of the highest violent crime rates. This bill will not curb crime rates or decrease violence. Criminals will not purchase insurance policies, just as the many laws on the books have not stopped them from committing other crimes involving the misuse of firearms.

The greatest impact of this bill would be to price the poor out of the ability to exercise a fundamental, individual, constitutional right as well as their inherent right to self-defense, and is not any different from imposing a poll tax falling most onerously on minorities and the poor. It could also be compared to requiring publishers to obtain insurance or post a bond against possible defamation actions in order to operate a newspaper or periodical.

The bill goes on to state that the insurance policy must be purchased within 30 days of the act’s effective date, but if such policies do not exist, this could lead to a de facto gun ban in the District of Columbia. Many, if not most, insurers do not offer firearm-specific liability coverage, many exclude coverage for claims arising from firearm ownership and any legitimate defensive use is often improperly excluded under a misapplication of the “intentional acts exclusion.” Further, coverage for claims against a homeowner for the misuse of a stolen gun will in no way benefit crime victims as the thief cuts all liability to the owner by the act of stealing the gun.

At the very least, a gun owner should not be responsible for the acts committed by a criminal who has stolen a firearm, but under this bill the policy has to cover both negligent and intentional acts “involving the use of the insured firearm while it is owned by the policy holder.”

The main problem, of course, is that even if your property is lost or stolen, you still own it. So if it wasn’t enough that no insurance company will insure against intentional acts by the

policy holder, they would also have to insure against negligent or intentional acts by gun thieves and other unauthorized possessors.

Further, a person is “presumed to be the owner” of a lost or stolen gun until the loss or theft is reported. Would any insurance company insure the owner of a stolen firearm against liability for a criminal act committed with the firearm that wasn’t reported lost or stolen? What if someone had no idea her gun was stolen, or what if a firearm was stolen and used to commit a crime before the lawful owner was able to report it stolen?

Finally, the District should consider the risk and cost of potential litigation if this provision is enacted. In its October 2011 decision in *Heller v. District of Columbia*, the United States Court of Appeals for the District of Columbia Circuit held that firearm registration requirements that are “novel”—including all requirements related to registration of long guns—cannot be presumed valid and are therefore subject to a higher level of Second Amendment scrutiny than “longstanding” requirements. The proposed insurance requirement would not only be “novel” within the District; it would be unique in the entire United States and the District would therefore have to prove that it is “narrowly tailored” to achieve its goal. Given the unavailability of the type of insurance that would be mandated by this bill, and the unlikely prospect that those who commit armed crime in the District would obtain any insurance at all, we believe the insurance mandate should—and would—be found unconstitutional.

It is for these reasons that the NRA strongly opposes DC B20-170 and we would urge that this bill not be passed.