

22949.65. Private civil actions; standing; awards

(a) Any person, other than an officer or employee of a state or local governmental entity in this state, may bring a civil action against any person who does any of the following:

(1) Knowingly violates Section 22949.62.

(2) Knowingly engages in conduct that aids or abets a violation of Section 22949.62, regardless of whether the person knew or should have known that the person aided or abetted would be violating Section 22949.62.

(3) Knowingly commits an act with the intent to engage in the conduct described by paragraph (1) or (2).

(b) If a claimant prevails in an action brought under this section, the court shall award all of the following:

(1) Injunctive relief sufficient to prevent the defendant from violating this chapter or engaging in acts that aid or abet violations of this chapter.

(2)

(A)

(i) Statutory damages in an amount of not less than ten thousand dollars (\$10,000) for each weapon or firearm precursor part as to which the defendant violated Section 22949.62, and for each weapon or firearm precursor part as to which the defendant aided or abetted a violation of Section 22949.62.

(ii) This subparagraph shall remain in effect unless found by a court to be invalid or unconstitutional, in which case this subparagraph is repealed and subparagraph (B) shall become operational.

(B)

(i) A civil penalty in an appropriate amount to be determined by the court for each violation of this

chapter. In making that determination, the court shall consider factors that include, but are not limited to, the number of firearms or precursor parts involved in the defendant's violation of this chapter, the duration of the prohibited conduct, whether the defendant has previously violated this chapter or any other federal, state, or local law concerning the regulation of firearms, and any other factors tending to increase the risk to the public, such as proximity of the violations to sensitive places.

(ii) This subparagraph shall become effective only if a court finds subparagraph (A) to be invalid or unconstitutional.

(3) Attorney's fees and costs.

(c) Notwithstanding subdivision (b), a court shall not award relief under this section in response to a violation of subdivision (a) if the defendant demonstrates that the defendant previously paid the full amount of any monetary award under subdivision (b) in a previous action for each weapon or firearm precursor part as to which the defendant violated, or aided or abetted a violation of, Section 22949.62.

(d) Notwithstanding any other law, a cause of action under this section shall be extinguished unless the action is brought not later than four years after the cause of action accrues.

(e) An act or omission in violation of Section 22949.62 shall be deemed an injury in fact to all residents of, and visitors to, this state, and any such person shall have standing to bring a civil action pursuant to this section.

(f) Notwithstanding any other law, none of the following is a defense to an action brought under this section:

(1) A defendant's ignorance or mistake of law.

(2) A defendant's belief that the requirements of this chapter are unconstitutional or were unconstitutional.

(3) A defendant's reliance on any court decision that has been overruled on appeal or by a subsequent court, even if that court decision had not been overruled when the defendant engaged in conduct that violates this chapter.

(4) A defendant's reliance on any state or federal court decision that is not binding on the court in which the action has been brought.

(5) Nonmutual issue preclusion or nonmutual claim preclusion.

(6) Any claim that the enforcement of this chapter or the imposition of civil liability against the defendant will violate a constitutional right of a third party.

(7) A defendant's assertion that this chapter proscribes conduct that is separately prohibited by the Penal Code or any other law of this state, or that this chapter proscribes conduct beyond that which is already prohibited by the Penal Code or any other law of this state.

(8) Any claim that the firearm or firearm precursor part at issue was not misused, or was not intended to be misused, in a criminal or unlawful manner.

(g)

(1) Both of the following are affirmative defenses to an action brought under this section:

(A) A person sued under paragraph (2) of subdivision (a) reasonably believed, after conducting a reasonable investigation, that the person aided or abetted was complying with this chapter.

(B) A person sued under paragraph (3) of subdivision (a) reasonably believed, after conducting a reasonable investigation, that the person was complying with this chapter or was aiding or abetting another who was complying with this chapter.

(2) The defendant has the burden of proving an affirmative defense under this subdivision by a preponderance of the evidence.

(h) This section shall not be construed to impose liability on any speech or conduct protected by the First Amendment to the United States Constitution, as made applicable to the states through the Fourteenth Amendment to the United States Constitution, or by Section 2 of Article I of the California Constitution.

(i) Notwithstanding any other law, this state, a state official, or a district, county, or city attorney shall not intervene in an action brought under this section. However, this subdivision does not prohibit a person described by this subdivision from filing an amicus curiae brief in the action.

(j) Notwithstanding any other law, a court shall not award attorney's fees or costs to a defendant in an action brought under this section.

(k) An action pursuant to this section shall not be brought against a federal government, state, political subdivision, or an employee of a federal government, state, or political subdivision on the basis of acts or omissions in the course of discharge of official duties.

History:

Added by Stats 2022 ch 146 (SB 1327),s 1, eff. 1/1/2023.