

2 SSB 5131 - S AMD  
3 By Senator A. Smith

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 9.41.098 and 1989 c 222 s 8 are each amended to read  
8 as follows:

9 (1) The superior courts and the courts of limited jurisdiction of  
10 the state may order forfeiture of a firearm which is proven to be:

11 (a) Found concealed on a person not authorized by RCW 9.41.060 or  
12 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute  
13 defense to forfeiture if the person possessed a valid Washington  
14 concealed pistol license within the preceding two years and has not  
15 become ineligible for a concealed pistol license in the interim.  
16 Before the firearm may be returned, the person must pay the past due  
17 renewal fee and the current renewal fee;

18 (b) Commercially sold to any person without an application as  
19 required by RCW 9.41.090;

20 (c) Found in the possession or under the control of a person at the  
21 time the person committed or was arrested for committing a crime of  
22 violence or a crime in which a firearm was used or displayed or a  
23 felony violation of the uniform controlled substances act, chapter  
24 69.50 RCW;

25 (d) Found concealed on a person who is in any place in which a  
26 concealed pistol license is required, and who is under the influence of  
27 any drug or under the influence of intoxicating liquor, having 0.10  
28 grams or more of alcohol per two hundred ten liters of breath or 0.10  
29 percent or more by weight of alcohol in the person's blood, as shown by  
30 analysis of the person's breath, blood, or other bodily substance;

31 (e) Found in the possession of a person prohibited from possessing  
32 the firearm under RCW 9.41.040;

33 (f) Found in the possession of a person free on bail or personal  
34 recognizance pending trial, appeal, or sentencing for a crime of  
35 violence or a crime in which a firearm was used or displayed, except

1 that violations of Title 77 RCW shall not result in forfeiture under  
2 this section;

3 (g) Found in the possession of a person found to have been mentally  
4 incompetent while in possession of a firearm when apprehended or who is  
5 thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

6 (h) Known to have been used or displayed by a person in the  
7 violation of a proper written order of a court of general jurisdiction;  
8 or

9 (i) Known to have been used in the commission of a crime of  
10 violence or a crime in which a firearm was used or displayed or a  
11 felony violation of the uniformed controlled substances act, chapter  
12 69.50 RCW.

13 (2) Upon order of forfeiture, the court in its discretion shall  
14 order destruction of any firearm that is illegal for any person to  
15 possess. ~~((All firearms legal for citizen possession that are  
16 judicially forfeited or forfeited due to failure to make a claim under  
17 RCW 63.32.010, 63.40.010, or 63.35.020 shall be submitted for auction  
18 to commercial sellers once a year if the submitting agency has  
19 accumulated at least ten firearms authorized for sale. Law enforcement  
20 agencies may conduct joint auctions for the purpose of maximizing  
21 efficiency. A maximum of ten percent of such firearms may be retained  
22 for use by local law enforcement agencies and the Washington state  
23 patrol. Before submission for auction, a court may temporarily retain  
24 forfeited firearms if needed for evidence. The proceeds from any sale  
25 shall be divided as follows: The local jurisdiction and the Washington  
26 state patrol shall retain its costs, including actual costs of storage  
27 and sale, and shall forward the remainder to the state department of  
28 wildlife for use in its firearms training program pursuant to RCW  
29 77.32.155.~~

30 ~~If a firearm is delivered to a law enforcement agency and the  
31 agency no longer requires use of the firearm, the agency shall dispose  
32 of the firearm by auction as provided by this subsection. The public  
33 auctioning agency shall, as a minimum, maintain a record of all  
34 forfeited firearms by manufacturer, model, caliber, serial number, date  
35 and circumstances of forfeiture, and final disposition. The records  
36 shall be open to public inspection and copying.)) A court may  
37 temporarily retain forfeited firearms needed for evidence.~~

38 (a) Except as provided in (b) and (c) of this subsection, firearms  
39 that are judicially forfeited or forfeited due to a failure to make a

1 claim under RCW 63.32.010, 63.35.020, or 63.40.010, or that are no  
2 longer needed for evidence, may be disposed of in any manner determined  
3 by the local legislative authority. Any proceeds of an auction or  
4 trade may be retained by the legislative authority. This subsection  
5 (2)(a) applies only to firearms that come into the possession of the  
6 law enforcement agency after June 30, 1993.

7 By midnight, June 30, 1993, every law enforcement agency shall  
8 prepare an inventory, under oath, of every firearm that has been  
9 judicially forfeited, has been seized and may be subject to judicial  
10 forfeiture, or that has been, or may be, forfeited due to a failure to  
11 make a claim under RCW 63.32.010, 63.35.020, or 63.40.010, or that is  
12 no longer needed for evidence.

13 (b) Except as provided in (c) of this subsection, for every firearm  
14 in the inventory required under (a) of this subsection, a law  
15 enforcement agency shall destroy illegal firearms, may retain a maximum  
16 of ten percent of legal forfeited firearms for agency use, and shall  
17 either:

18 (i) Comply with the provisions for the auction of firearms in RCW  
19 9.41.098 that were in effect immediately preceding the effective date  
20 of this act; or

21 (ii) Trade, auction, or arrange for the auction of, rifles and  
22 shotguns. In addition, the law enforcement agency shall either trade,  
23 auction, or arrange for the auction of, short firearms, or shall pay a  
24 fee of twenty-five dollars to the state treasurer for every short  
25 firearm neither auctioned nor traded, to a maximum of fifty thousand  
26 dollars. The fees shall be accompanied by an inventory, under oath, of  
27 every short firearm listed in the inventory required by (a) of this  
28 subsection, that has been neither traded nor auctioned. The state  
29 treasurer shall credit the fees to the firearms range account  
30 established in RCW 77.12.720. All trades or auctions of firearms under  
31 this subsection shall be to commercial sellers. Proceeds of any  
32 auction less costs, including actual costs of storage and sale, shall  
33 be forwarded to the firearms range account established in RCW  
34 77.12.720.

35 (c) Antique firearms as defined by RCW 9.41.150 and firearms  
36 recognized as curios, relics, and firearms of particular historical  
37 significance by the United States treasury department bureau of  
38 alcohol, tobacco, and firearms are exempt from destruction and shall be  
39 disposed of by auction or trade to commercial sellers.

1 (3) The court shall order the firearm returned to the owner upon a  
2 showing that there is no probable cause to believe a violation of  
3 subsection (1) of this section existed or the firearm was stolen from  
4 the owner or the owner neither had knowledge of nor consented to the  
5 act or omission involving the firearm which resulted in its forfeiture.

6 (4) A law enforcement officer of the state or of any county or  
7 municipality may confiscate a firearm found to be in the possession of  
8 a person under circumstances specified in subsection (1) of this  
9 section. After confiscation, the firearm shall not be surrendered  
10 except: (a) To the prosecuting attorney for use in subsequent legal  
11 proceedings; (b) for disposition according to an order of a court  
12 having jurisdiction as provided in subsection (1) of this section; or  
13 (c) to the owner if the proceedings are dismissed or as directed in  
14 subsection (3) of this section."

15 **SSB 5131** - S AMD  
16 By Senator A. Smith

17

18 On page 1, line 1 of the title, after "Relating to" strike the  
19 remainder of the title and insert "forfeiture of firearms; and amending  
20 RCW 9.41.098."

--- END ---