

# HOUSE BILL REPORT

## ESHB 1259

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As Amended by the Senate

**Title:** An act relating to forfeiture of firearms.

**Brief Description:** Allowing for the destruction of forfeited firearms.

**Sponsors:** By House Committee on Judiciary (originally sponsored by Representatives Locke, Appelwick, J. Kohl, Wang, Reams, Veloria, Johanson, L. Johnson, Flemming and Pruitt.)

**Brief History:**

Reported by House Committee on:  
Judiciary, March 3, 1993, DPS;  
Passed House, March 11, 1993, 71-27;  
Amended by Senate.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Ballasiotes, Assistant Ranking Minority Member; Johanson; Locke; H. Myers; Riley; Schmidt; Scott; and Wineberry.

**Minority Report:** Do not pass. Signed by 7 members: Representatives Padden, Ranking Minority Member; Campbell; Chappell; Forner; Long; Mastin; and Tate.

**Staff:** Margaret Allen (786-7191).

**Background:** Firearms possessed or used in certain illegal ways may be seized by a law enforcement agency and ordered forfeited by a court.

When firearms are forfeited, firearms illegal for any person to possess must be destroyed if a court so orders. A maximum of 10 percent of forfeited firearms may be retained by a law enforcement agency for agency use. The remaining forfeited firearms, along with firearms no longer needed by the law enforcement agency, are to be auctioned to commercial sellers once a year if an agency has accumulated at least 10 firearms authorized for sale. For efficiency, law enforcement agencies may conduct joint auctions.

After the law enforcement agency deducts its costs, including actual costs of storage and sale, the agency forwards the auction proceeds to the Department of Wildlife for use in the Hunter Safety Program.

The public auctioning agency must maintain records of all forfeited firearms by manufacturer, model, caliber, serial number, date, and circumstances of forfeiture, and final disposition.

Some law enforcement agencies have declined to auction forfeited firearms.

**Summary of Bill:** By midnight, June 30, 1993, each law enforcement agency other than the Washington State Patrol must prepare an inventory of all firearms in the agency's possession that have been, or may be, forfeited, or that are no longer needed for evidence.

The law enforcement agency must destroy every illegal firearm in the inventory and may retain 10 percent of the legal firearms for agency use. Of the remaining firearms in the inventory, the law enforcement agency must either:

- (1) Comply with the auction provisions of the statute in effect immediately preceding the effective date of the act; or
- (2) Trade or auction the firearms. Net auction proceeds must be forwarded to the firearms range account. Further, for every short firearm the law enforcement agency neither trades nor auctions, the agency must pay a \$25 fee to the state treasurer, to a maximum of \$50,000. The state treasurer is to credit the fees to the firearms range account.

Regarding firearms coming into a law enforcement agency's possession after June 30, 1993, a legislative authority may dispose of forfeited firearms, except for antiques, or firearms no longer needed for evidence in any manner it chooses. Antique firearms, curios, relics, and firearms of particular historical significance must be auctioned or traded to commercial sellers. The legislative authority may keep the proceeds of an auction or trade.

Forfeited firearms in the possession of the Washington state patrol on or after the effective date of the act that are no longer needed for evidence, must be disposed of as follows:

- (1) Firearms illegal for any person to possess must be destroyed;

- (2) The Washington State Patrol may retain a maximum of 10 percent of legal firearms for agency use; and
- (3) All other legal firearms must be auctioned to commercial sellers.

The Washington State Patrol may keep any auction proceeds.

**EFFECT OF SENATE AMENDMENT(S):** The striking amendment clarifies that the provisions for disposing of firearms coming into a law enforcement agency's possession after June 30, 1993 apply only if the law enforcement agency has complied with provisions for disposing of firearms that are in its possession before June 30. It also clarifies the requirement that judicially forfeited firearms must not be needed for evidence, and firearms not needed for evidence must be forfeited, before disposal.

The amendment repositions references within the bill to unclaimed property statutes, in recognition of the separate disposition provisions for forfeited firearms held by the Washington State Patrol.

The Washington State Patrol may trade forfeited firearms to commercial sellers and retain the proceeds.

The striking amendment includes a few other technical changes to enhance readability, and adds an emergency clause.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Too many guns are in circulation. Violence caused by guns is escalating nationwide. Local governments should have the option of destroying or auctioning firearms. This is not a fiscal issue; it is a law enforcement issue.

**Testimony Against:** Firearms manufacturers would be the main beneficiaries of a law allowing forfeited firearms to be destroyed. To destroy forfeited firearms would be to destroy a valuable source of governmental revenue. A local option to allow a law enforcement agency to trade forfeited firearms for police equipment is preferable. A different split of proceeds would encourage auctions.

**Witnesses:** Denise Harnly, Seattle Neighborhood Group (for); Greg Mykland, city of Tacoma (for); Philip Indovina (against); Colonel Mel Pfankuche (against); Donald Roberts (against); Al Woodbridge, Washington State Rifle and Pistol

Association (against); George Aiton, Washington Arms Collectors (against); Bill Henry (against); George Minnich, King County Police (against); and Rick Jensen, Washington State Patrol (neutral).

**VOTE ON FINAL PASSAGE:**

Yeas 71; Nays 27

Nays: Representatives Ballard, Brumsickle, Carlson, Casada, Chandler, Chappell, Cooke, Edmondson, Forner, Fuhrman, Grant, Horn, King, Kremen, Lisk, Long, Mastin, Mielke, Morton, Padden, Schoesler, Sheahan, Silver, Stevens, Tate, Thomas, Vance