

HOUSE BILL REPORT

ESSB 5131

As Reported By House Committee On:
Judiciary

Title: An act relating to forfeiture of firearms.

Brief Description: Authorizing destruction of confiscated firearms.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Wojahn, Gaspard, Moyer, Prentice, A. Smith, Spanel, Deccio, Haugen, Quigley, Pelz and Talmadge).

Brief History:

Reported by House Committee on:
Judiciary, March 23, 1993, DPA.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 9 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Chappell; Johanson; Mastin; H. Myers; Riley; Scott; and Wineberry.

Minority Report: Do not pass. Signed by 3 members: Representatives Padden, Ranking Minority Member; Campbell; and Long.

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, must 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.

Some law enforcement agencies have declined to auction forfeited firearms.

Summary of Amended 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.

The law enforcement agency must destroy every illegal firearm in the inventory and may retain up to 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 forfeited 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 no longer needed for evidence in any manner it chooses. The legislative authority may keep the proceeds of an auction or trade.

Antique firearms, curios, relics, and firearms of particular historical significance must be auctioned or traded to commercial sellers.

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) A maximum of 10 percent of legal firearms may be retained for agency use; and

- (3) All other legal firearms must be auctioned or traded to commercial sellers.

The Washington State Patrol may keep any proceeds of an auction or trade.

Amended Bill Compared to Engrossed Substitute Bill: The amended bill clarifies the requirement that judicially forfeited firearms must not be needed for evidence, and firearms not needed for evidence must be forfeited, before disposal.

Provisions governing the Washington State Patrol's disposition of forfeited firearms are moved to the same location as they appear in ESHB 1259. The amended bill also repositions references to unclaimed property statutes within the bill, in recognition of the separate disposition provisions for forfeited firearms held by the Washington State Patrol.

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

Fiscal Note: Available.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: None.

Testimony Against: None.

Witnesses: None.