

SENATE BILL REPORT

ESHB 1259

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, MARCH 30, 1993

Brief Description: Allowing for the destruction of forfeited firearms.

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

HOUSE COMMITTEE ON JUDICIARY

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, Nelson, Spanel, and Niemi.

Staff: Jon Carlson (786-7459)

Hearing Dates: March 30, 1993

BACKGROUND:

Firearms illegally used or possessed may, under certain circumstances, be seized by a law enforcement agency and ordered forfeited by a court. When firearms are forfeited, one of three actions may be taken. Firearms that are illegal for anyone to possess are to be destroyed. Up to 10 percent of other firearms may be retained by law enforcement agencies for their own use. The remainder of the forfeited firearms are sold at auction to commercial sellers.

The proceeds from the sale of forfeited firearms are divided as follows: The agency which seized the firearms is reimbursed for the cost of storage and sale. The rest of the proceeds go to the state Department of Wildlife for use in its firearms training program.

SUMMARY:

New procedures are adopted with regard to the disposition of firearms that are judicially forfeited or forfeited due to a failure to make a claim.

Firearms Currently in the Law Enforcement Agency's Possession: By midnight, June 30, 1993, each law enforcement agency 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.

Firearms Coming into a Law Enforcement Agency's Possession After June 30, 1993: With regard to firearms coming into a law enforcement agency's possession after June 30, 1993, a legislative authority may dispose of forfeited firearms or firearms no longer needed for evidence in any manner determined by the local legislative authority. The legislative authority may keep the proceeds of an auction or trade.

Firearms in the Possession of the Washington State Patrol: Those firearms in the possession of the Washington State Patrol on or after the effective date of this act that are judicially forfeited or forfeited due to a failure to make a claim, and that are no longer needed for evidence, must be disposed of as follows: 1) firearms illegal for a 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 to commercial sellers. The State Patrol may retain the proceeds of an auction.

Antique firearms, curios, relics, and firearms of particular historical significance must be auctioned or traded by law enforcement agencies to commercial sellers. However, the Washington State Patrol is not allowed to trade these items to commercial sellers.

SUMMARY OF PROPOSED SENATE AMENDMENT:

Inappropriate references to the statutes pertaining to unclaimed property in the hands of city police, State Patrol, or sheriff are removed.

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

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

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:

Firearm manufacturers would prove the main beneficiaries of a law allowing forfeited firearms to be destroyed. Allowing destruction would eliminate a valuable source of governmental revenue.

TESTIFIED: Al Woodbridge, Washington State Rifle and Pistol Association (pro); Al Wallace, Renton Police Chief; Jackie McFayden, Association of Washington Cities (pro); Col. Mel Pfankuche (con); Merton Cooper (con); Kurt Sharar, Washington State Association of Counties (pro); J.K. Johnson, Washington State Muzzleloaders Association (con)