

# HOUSE BILL REPORT

## HB 2854

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### As Reported by House Committee On:

Criminal Justice & Corrections

**Title:** An act relating to seizure, forfeiture, and destruction of explosives.

**Brief Description:** Revising provisions concerning seizure, forfeiture, and destruction of explosives.

**Sponsors:** Representatives Delvin, Lovick, O'Brien, Lantz and Bush.

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 2/3/04, 2/6/04 [DP].

#### Brief Summary of Bill

- Authorizes a law enforcement agency to destroy seized explosives, improvised devices, or their components if it determines that storage is impractical or unsafe.
- Requires a law enforcement agency that destroys seized materials to follow certain procedures and keep certain records for evidentiary purposes.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Pearson and Veloria.

**Staff:** Wendy Chen (Jim Morishima 786-7191).

### Background:

The Washington State Explosives Act governs the manufacture, use, and handling of explosives. The act permits a law enforcement agency to seize explosives, improvised devices, and components used in violation of the law. The law enforcement agency is required to destroy seized materials when it is necessary to protect the public safety and welfare. Civil forfeiture proceedings commence unless destruction is necessary, or the materials are being held for evidence.

Generally, it is within the discretion of a trial court to determine whether photographs or videotapes are admissible. The Washington Rules of Evidence do require that a videotape must be properly authenticated and be relevant in order to be admitted as demonstrative evidence.

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**Summary of Bill:**

A law enforcement agency may destroy seized explosives, improvised devices, or their components if the agency determines that it is impractical or unsafe to store them.

If the agency destroys materials, it must make a visual recording of the materials and their destruction, keep a sample where practicable, and make a report of the materials destroyed and the time, location, and reason for destruction. These records, reports, and samples are admissible as evidence in place of the materials destroyed.

Materials not destroyed or kept for evidentiary purposes are to undergo civil forfeiture proceedings.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** Storing seized materials can be costly and dangerous. Potentially dangerous materials are stored while awaiting court action. Law enforcement often does not charge an individual with unlawful possession of explosives because it has destroyed the explosives because of safety concerns. This bill will allow for the timely destruction of materials without compromising convictions for violations of the law.

**Testimony Against:** None.

**Persons Testifying:** Representative Delvin, prime sponsor; and Glenn Cramer, Washington State Patrol.

**Persons Signed In To Testify But Not Testifying:** None.