

HOUSE BILL REPORT

HB 1483

As Reported by House Committee On: Judiciary

Title: An act relating to the disposition of forfeited firearms by the Washington state patrol.

Brief Description: Concerning the disposition of forfeited firearms by the Washington state patrol.

Sponsors: Representatives Senn, Hayes, Lovick, Klippert, Chapman, Jenkins, Robinson, Doglio, Appleton, Kilduff, Ormsby and Santos.

Brief History:

Committee Activity:

Judiciary: 1/31/17, 2/9/17 [DP].

Brief Summary of Bill

- Authorizes the Washington State Patrol to destroy forfeited firearms in its custody.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Jenkins, Chair; Kilduff, Vice Chair; Frame, Goodman, Graves, Hansen, Kirby, Klippert and Orwall.

Minority Report: Do not pass. Signed by 4 members: Representatives Rodne, Ranking Minority Member; Muri, Assistant Ranking Minority Member; Haler and Shea.

Staff: Edie Adams (786-7180).

Background:

The firearm forfeiture statute allows courts to order forfeiture of a firearm under a number of circumstances, including if the firearm is proven to be: concealed on a person without a concealed pistol license or found in the possession of a person prohibited from possessing firearms; in the possession of a person at the time of commission of, or arrest for, a felony, or while criminal charges are pending; in the possession of a person who was mentally

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incompetent when apprehended; or used in the commission of certain crimes. Firearms seized under this statute must be returned if the court finds there is no probable cause to believe a violation occurred or if the criminal proceedings are dismissed.

Under the unclaimed property statutes, firearms may also be forfeited when the owner fails to claim the firearm within a certain time period after being notified by the local agency. In this case, any unsafe or illegal firearms must be destroyed, and other firearms may be retained and used by the law enforcement agency for a period of one year, after which time they must be disposed of in the manner provided under the firearm forfeiture statute.

Firearms in the possession of local law enforcement agencies that have been ordered forfeited by a court under the firearm forfeiture statute or that have been forfeited under the unclaimed property statutes may be disposed of in any manner chosen by the local legislative authority. The local legislative authority may keep the proceeds of any auction or trade of forfeited firearms.

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

Forfeited firearms in the possession of the Washington State Patrol that are not needed for evidence must be disposed of as follows: (1) illegal firearms must be destroyed; (2) 10 percent of legal firearms may be retained by the Washington State Patrol for agency use; and (3) all other legal firearms must be auctioned or traded to licensed dealers. The Washington State Patrol may keep any proceeds of an auction or trade.

Summary of Bill:

Forfeited firearms in the possession of the Washington State Patrol that are not retained for agency use may be auctioned or traded to licensed dealers or destroyed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 2, which because of a prior delayed effective date, takes effect on April 1, 2018.

Staff Summary of Public Testimony:

(In support) This is agency request legislation from the Washington State Patrol (WSP). The Chief of the WSP would appreciate the option to destroy because he has serious concerns with selling forfeited firearms and then having one or more of them subsequently used in a crime and traced back to the WSP. The bill creates equality with other law enforcement

agencies that have the ability to keep, trade, sell, or destroy forfeited firearms. Some police chiefs choose to sell the firearms, but some choose to destroy them because they do not want the guilt that would arise if a weapon that had been in their custody subsequently was used in a violent crime. These situations do happen. The bill simply gives discretion and an additional option to determine that a firearm should be destroyed rather than sold.

(Opposed) A rational reason has not been presented as to why legal firearms should be destroyed. The law already requires destruction of illegal or dangerous firearms. When agencies auction firearms, they are auctioning them to licensed firearms dealers, so these guns are not any easier for a person to buy than a new gun. The bill will result in a loss of revenue to the state, and in addition, impose costs associated with destruction of firearms. It is the person, not the gun, who commits the crime. Law enforcement should focus on going after the criminal who is committing the crime.

Persons Testifying: (In support) Representative Senn, prime sponsor; Monica Alexander, Washington State Patrol; and Cody Arledge, Washington Alliance for Gun Responsibility.

(Opposed) Tom Kwieciak, National Rifle Association.

Persons Signed In To Testify But Not Testifying: None.