
HOUSE BILL 1483

State of Washington

65th Legislature

2017 Regular Session

By Representatives Senn, Hayes, Lovick, Klippert, Chapman, Jinkins, Robinson, Doglio, Appleton, Kilduff, Ormsby, and Santos

Read first time 01/20/17. Referred to Committee on Judiciary.

1 AN ACT Relating to the disposition of forfeited firearms by the
2 Washington state patrol; amending RCW 9.41.098 and 9.41.098;
3 providing an effective date; and providing an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 9.41.098 and 2003 c 39 s 5 are each amended to read
6 as follows:

7 (1) The superior courts and the courts of limited jurisdiction of
8 the state may order forfeiture of a firearm which is proven to be:

9 (a) Found concealed on a person not authorized by RCW 9.41.060 or
10 9.41.070 to carry a concealed pistol: PROVIDED, That it is an
11 absolute defense to forfeiture if the person possessed a valid
12 Washington concealed pistol license within the preceding two years
13 and has not become ineligible for a concealed pistol license in the
14 interim. Before the firearm may be returned, the person must pay the
15 past due renewal fee and the current renewal fee;

16 (b) Commercially sold to any person without an application as
17 required by RCW 9.41.090;

18 (c) In the possession of a person prohibited from possessing the
19 firearm under RCW 9.41.040 or 9.41.045;

20 (d) In the possession or under the control of a person at the
21 time the person committed or was arrested for committing a felony or

1 committing a nonfelony crime in which a firearm was used or
2 displayed;

3 (e) In the possession of a person who is in any place in which a
4 concealed pistol license is required, and who is under the influence
5 of any drug or under the influence of intoxicating liquor, as defined
6 in chapter 46.61 RCW;

7 (f) In the possession of a person free on bail or personal
8 recognizance pending trial, appeal, or sentencing for a felony or for
9 a nonfelony crime in which a firearm was used or displayed, except
10 that violations of Title 77 RCW shall not result in forfeiture under
11 this section;

12 (g) In the possession of a person found to have been mentally
13 incompetent while in possession of a firearm when apprehended or who
14 is thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

15 (h) Used or displayed by a person in the violation of a proper
16 written order of a court of general jurisdiction; or

17 (i) Used in the commission of a felony or of a nonfelony crime in
18 which a firearm was used or displayed.

19 (2) Upon order of forfeiture, the court in its discretion may
20 order destruction of any forfeited firearm. A court may temporarily
21 retain forfeited firearms needed for evidence.

22 (a) Except as provided in (b), (c), and (d) of this subsection,
23 firearms that are: (i) Judicially forfeited and no longer needed for
24 evidence; or (ii) forfeited due to a failure to make a claim under
25 RCW 63.32.010 or 63.40.010; may be disposed of in any manner
26 determined by the local legislative authority. Any proceeds of an
27 auction or trade may be retained by the legislative authority. This
28 subsection (2)(a) applies only to firearms that come into the
29 possession of the law enforcement agency after June 30, 1993.

30 By midnight, June 30, 1993, every law enforcement agency shall
31 prepare an inventory, under oath, of every firearm that has been
32 judicially forfeited, has been seized and may be subject to judicial
33 forfeiture, or that has been, or may be, forfeited due to a failure
34 to make a claim under RCW 63.32.010 or 63.40.010.

35 (b) Except as provided in (c) of this subsection, of the
36 inventoried firearms a law enforcement agency shall destroy illegal
37 firearms, may retain a maximum of ten percent of legal forfeited
38 firearms for agency use, and shall either:

1 (i) Comply with the provisions for the auction of firearms in
2 (~~RCW 9.41.098~~) this section that were in effect immediately
3 preceding May 7, 1993; or

4 (ii) Trade, auction, or arrange for the auction of, rifles and
5 shotguns. In addition, the law enforcement agency shall either trade,
6 auction, or arrange for the auction of, short firearms, or shall pay
7 a fee of twenty-five dollars to the state treasurer for every short
8 firearm neither auctioned nor traded, to a maximum of fifty thousand
9 dollars. The fees shall be accompanied by an inventory, under oath,
10 of every short firearm listed in the inventory required by (a) of
11 this subsection, that has been neither traded nor auctioned. The
12 state treasurer shall credit the fees to the firearms range account
13 established in RCW 79A.25.210. All trades or auctions of firearms
14 under this subsection shall be to licensed dealers. Proceeds of any
15 auction less costs, including actual costs of storage and sale, shall
16 be forwarded to the firearms range account established in RCW
17 79A.25.210.

18 (c) Antique firearms and firearms recognized as curios, relics,
19 and firearms of particular historical significance by the United
20 States treasury department bureau of alcohol, tobacco, (~~and~~)
21 firearms, and explosives are exempt from destruction and shall be
22 disposed of by auction or trade to licensed dealers.

23 (d) Firearms in the possession of the Washington state patrol
24 (~~on or after May 7, 1993,~~) that are judicially forfeited and no
25 longer needed for evidence, or forfeited due to a failure to make a
26 claim under RCW 63.35.020, must be disposed of as follows: (i)
27 Firearms illegal for any person to possess must be destroyed; (ii)
28 the Washington state patrol may retain a maximum of ten percent of
29 legal firearms for agency use; and (iii) all other legal firearms
30 must be auctioned or traded to licensed dealers or destroyed. The
31 Washington state patrol may retain any proceeds of an auction or
32 trade.

33 (3) The court shall order the firearm returned to the owner upon
34 a showing that there is no probable cause to believe a violation of
35 subsection (1) of this section existed or the firearm was stolen from
36 the owner or the owner neither had knowledge of nor consented to the
37 act or omission involving the firearm which resulted in its
38 forfeiture.

39 (4) A law enforcement officer of the state or of any county or
40 municipality may confiscate a firearm found to be in the possession

1 of a person under circumstances specified in subsection (1) of this
2 section. After confiscation, the firearm shall not be surrendered
3 except: (a) To the prosecuting attorney for use in subsequent legal
4 proceedings; (b) for disposition according to an order of a court
5 having jurisdiction as provided in subsection (1) of this section; or
6 (c) to the owner if the proceedings are dismissed or as directed in
7 subsection (3) of this section.

8 **Sec. 2.** RCW 9.41.098 and 2016 1st sp.s. c 29 s 281 are each
9 amended to read as follows:

10 (1) The superior courts and the courts of limited jurisdiction of
11 the state may order forfeiture of a firearm which is proven to be:

12 (a) Found concealed on a person not authorized by RCW 9.41.060 or
13 9.41.070 to carry a concealed pistol: PROVIDED, That it is an
14 absolute defense to forfeiture if the person possessed a valid
15 Washington concealed pistol license within the preceding two years
16 and has not become ineligible for a concealed pistol license in the
17 interim. Before the firearm may be returned, the person must pay the
18 past due renewal fee and the current renewal fee;

19 (b) Commercially sold to any person without an application as
20 required by RCW 9.41.090;

21 (c) In the possession of a person prohibited from possessing the
22 firearm under RCW 9.41.040 or 9.41.045;

23 (d) In the possession or under the control of a person at the
24 time the person committed or was arrested for committing a felony or
25 committing a nonfelony crime in which a firearm was used or
26 displayed;

27 (e) In the possession of a person who is in any place in which a
28 concealed pistol license is required, and who is under the influence
29 of any drug or under the influence of intoxicating liquor, as defined
30 in chapter 46.61 RCW;

31 (f) In the possession of a person free on bail or personal
32 recognizance pending trial, appeal, or sentencing for a felony or for
33 a nonfelony crime in which a firearm was used or displayed, except
34 that violations of Title 77 RCW shall not result in forfeiture under
35 this section;

36 (g) In the possession of a person found to have been mentally
37 incompetent while in possession of a firearm when apprehended or who
38 is thereafter committed pursuant to chapter 10.77 RCW or committed
39 for mental health treatment under chapter 71.05 RCW;

1 (h) Used or displayed by a person in the violation of a proper
2 written order of a court of general jurisdiction; or

3 (i) Used in the commission of a felony or of a nonfelony crime in
4 which a firearm was used or displayed.

5 (2) Upon order of forfeiture, the court in its discretion may
6 order destruction of any forfeited firearm. A court may temporarily
7 retain forfeited firearms needed for evidence.

8 (a) Except as provided in (b), (c), and (d) of this subsection,
9 firearms that are: (i) Judicially forfeited and no longer needed for
10 evidence; or (ii) forfeited due to a failure to make a claim under
11 RCW 63.32.010 or 63.40.010; may be disposed of in any manner
12 determined by the local legislative authority. Any proceeds of an
13 auction or trade may be retained by the legislative authority. This
14 subsection (2)(a) applies only to firearms that come into the
15 possession of the law enforcement agency after June 30, 1993.

16 By midnight, June 30, 1993, every law enforcement agency shall
17 prepare an inventory, under oath, of every firearm that has been
18 judicially forfeited, has been seized and may be subject to judicial
19 forfeiture, or that has been, or may be, forfeited due to a failure
20 to make a claim under RCW 63.32.010 or 63.40.010.

21 (b) Except as provided in (c) of this subsection, of the
22 inventoried firearms a law enforcement agency shall destroy illegal
23 firearms, may retain a maximum of ten percent of legal forfeited
24 firearms for agency use, and shall either:

25 (i) Comply with the provisions for the auction of firearms in
26 (~~RCW 9.41.098~~) this section that were in effect immediately
27 preceding May 7, 1993; or

28 (ii) Trade, auction, or arrange for the auction of, rifles and
29 shotguns. In addition, the law enforcement agency shall either trade,
30 auction, or arrange for the auction of, short firearms, or shall pay
31 a fee of twenty-five dollars to the state treasurer for every short
32 firearm neither auctioned nor traded, to a maximum of fifty thousand
33 dollars. The fees shall be accompanied by an inventory, under oath,
34 of every short firearm listed in the inventory required by (a) of
35 this subsection, that has been neither traded nor auctioned. The
36 state treasurer shall credit the fees to the firearms range account
37 established in RCW 79A.25.210. All trades or auctions of firearms
38 under this subsection shall be to licensed dealers. Proceeds of any
39 auction less costs, including actual costs of storage and sale, shall

1 be forwarded to the firearms range account established in RCW
2 79A.25.210.

3 (c) Antique firearms and firearms recognized as curios, relics,
4 and firearms of particular historical significance by the United
5 States treasury department bureau of alcohol, tobacco, firearms, and
6 explosives are exempt from destruction and shall be disposed of by
7 auction or trade to licensed dealers.

8 (d) Firearms in the possession of the Washington state patrol
9 (~~on or after May 7, 1993,~~) that are judicially forfeited and no
10 longer needed for evidence, or forfeited due to a failure to make a
11 claim under RCW 63.35.020, must be disposed of as follows: (i)
12 Firearms illegal for any person to possess must be destroyed; (ii)
13 the Washington state patrol may retain a maximum of ten percent of
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15 must be auctioned or traded to licensed dealers or destroyed. The
16 Washington state patrol may retain any proceeds of an auction or
17 trade.

18 (3) The court shall order the firearm returned to the owner upon
19 a showing that there is no probable cause to believe a violation of
20 subsection (1) of this section existed or the firearm was stolen from
21 the owner or the owner neither had knowledge of nor consented to the
22 act or omission involving the firearm which resulted in its
23 forfeiture.

24 (4) A law enforcement officer of the state or of any county or
25 municipality may confiscate a firearm found to be in the possession
26 of a person under circumstances specified in subsection (1) of this
27 section. After confiscation, the firearm shall not be surrendered
28 except: (a) To the prosecuting attorney for use in subsequent legal
29 proceedings; (b) for disposition according to an order of a court
30 having jurisdiction as provided in subsection (1) of this section; or
31 (c) to the owner if the proceedings are dismissed or as directed in
32 subsection (3) of this section.

33 NEW SECTION. **Sec. 3.** Section 1 of this act expires April 1,
34 2018.

35 NEW SECTION. **Sec. 4.** Section 2 of this act takes effect April
36 1, 2018.

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