

HOUSE BILL REPORT

HB 1978

As Reported By House Committee On:

Law & Justice

Title: An act relating to disposal of firearms.

Brief Description: Providing alternative methods for the disposal of firearms in the possession of the state patrol.

Sponsors: Representatives Sheahan, Mitchell and O'Brien; by request of Washington State Patrol.

Brief History:

Committee Activity:

Law & Justice: 2/27/97, 3/5/97 [DPS].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Constantine, Assistant Ranking Minority Member; Carrell; Kenney; Lambert; Radcliff; Sherstad and Skinner.

Minority Report: Without recommendation. Signed by 3 members: Representatives Costa, Ranking Minority Member; Cody and Lantz.

Staff: Bill Perry (786-7123).

Background: Law enforcement agencies may come into possession of firearms in a number of ways. Sometimes firearms may be evidence seized in a criminal investigation. Sometimes they may be unclaimed property found or otherwise acquired by an agency.

Seized or unclaimed firearms may be disposed of in a variety of ways.

Under a number of situations, a court may order the forfeiture— of a seized firearm. Forfeiture amounts to eliminating the previous owner's rights to the firearm. Forfeiture may be ordered if a firearm is:

- o found concealed on a person who does not have a permit;
- o a pistol commercially sold without the required application;

- o illegally possessed by an ineligible person;
- o possessed by a person committing certain crimes;
- o possessed by a person under the influence who is in a place where a pistol license is required;
- o possessed by a person pending trial, appeal, or sentencing for certain non-game law violations;
- o possessed by a mentally incompetent person;
- o used or displayed in violation of a court order; or
- o used or displayed in the commission of certain crimes.

At the time of forfeiture, the court may order destruction of a firearm.

Under the unclaimed property laws, a firearm may be disposed of following prescribed attempts to notify the rightful owner.

Since 1993, any judicially forfeited or unclaimed firearm in the possession of a local government may be disposed of in any manner—determined by the local legislative authority.

Firearms in the possession of the Washington State Patrol (WSP), however, are subject to certain restrictions. A firearm held by the WSP (1) must be destroyed if it's illegal to possess; (2) may be retained for agency use - but not more than 10 percent of the firearms held may be retained; or (3) auctioned or traded to a licensed dealer.

Summary of Substitute Bill: The WSP is given authority to destroy unclaimed or judicially forfeited firearms in its possession. The WSP may destroy a firearm only if it is unsafe or inoperative and has been offered to a dealer for sale or trade and the offer was not accepted.

Substitute Bill Compared to Original Bill: The original bill allows the WSP to destroy firearms whether or not they are unsafe or inoperable, and whether or not they have been offered for auction or trade.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The WSP should have the authority to destroy firearms to the same extent as local authorities. The WSP is having to store poor quality firearms and firearms used in serious crimes that should not be returned to circulation.

Testimony Against: The WSP's current disregard for the law should not be legitimized. Auctioning or trading firearms could be a source of income for the state. Firearms don't commit crimes.

Testified: Chief Annette Sandburg, Washington State Patrol (pro); and Joe Waldron, Washington State Rifle and Pistol Association (con).