

HOUSE BILL REPORT

HB 1010

As Reported by House Committee On:
Civil Rights & 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, Lovick, Chapman, Walen, Slatter, Kloba, Peterson, Valdez, Kilduff, Ryu, Fitzgibbon, Appleton, Jinkins, Macri, Wylie, Goodman, Cody, Bergquist, Doglio, Robinson, Orwall, Stanford, Ortiz-Self, Santos, Frame and Leavitt.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/15/19, 1/18/19 [DPS].

Brief Summary of Substitute Bill

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

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Jinkins, Chair; Thai, Vice Chair; Goodman, Hansen, Kilduff, Kirby, Orwall, Valdez and Walen.

Minority Report: Do not pass. Signed by 6 members: Representatives Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Graham, Klippert, Shea and Ybarra.

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

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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 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 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 (WSP) on or after May 7, 1993, 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 WSP for agency use; and (3) all other legal firearms must be auctioned or traded to licensed dealers. The WSP may keep any proceeds of an auction or trade.

Summary of Substitute Bill:

Forfeited firearms in the possession of the Washington State Patrol (WSP) that are not retained for agency use may be auctioned or traded to licensed dealers or destroyed. Within six months after the effective date of the act, the WSP must develop and put in place policies addressing criteria for determining when firearms should be destroyed.

Substitute Bill Compared to Original Bill:

The Washington State Patrol is required to develop and put in place policies addressing criteria for determining when forfeited firearms should be destroyed not later than six months after the effective date of the act.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill brings equality to the different law enforcement agencies in Washington. The Washington State Patrol (WSP) is the only agency that may not destroy forfeited firearms. The WSP should not be an arms dealer or be in the chain of possession of a weapon that later gets used in a crime. Selling the firearms does not bring in much revenue after paying fees, taxes, and record keeping costs. The cost of gun violence is much more significant than the lost revenue. The bill provides the WSP with an option; it does not say they have to destroy these guns. The WSP does not want to be in the narrative associated with someone's death. These guns can be traced back to the WSP, and it is the WSP who will be highlighted if the gun is later used in a crime.

Gun violence prevention is a top priority issue. When people talk about gun violence they are talking about human lives. Resold crime guns can and do end up being used by criminals, including in some incidents involving children. All lives matter, and these deaths may have been preventable. What is needed is for law enforcement agencies to address problems and not be culpable for them.

There are more guns than people in the United States, and in 2016 the United States ranked second in the world in gun deaths. The statistics indicate that more firearms do not create a safer society. More guns in general means more gun violence. The WSP should be able to take crime guns out of circulation to reduce guns in the system and prevent them from being used in future crimes.

(Opposed) The money that can be made selling forfeited firearms can be used to help domestic violence victims, or people who are in marginalized communities or need protection from hate crimes. The number of firearms sold or traded by agencies that are used in subsequent crimes is very small. Once these guns are auctioned or traded to a dealer, different numbers are recorded and the paperwork starts all over again. The real problem with gun violence is the mental health system that the Legislature has ignored for too many years. There is no reason for any law enforcement agency to destroy firearms. The state is broke, and the money received from the sale of these firearms can be used to solve real problems. Guns are not the problem. It is the people who unlawfully use guns who are the problem.

Persons Testifying: (In support) Representative Senn, prime sponsor; Monica Alexander, Washington State Patrol; Gwen Loosmore, Washington State Parent-Teacher Association; Mark Bentley; Jordan Waits; and Charles Richard Kratzer.

(Opposed) Sharyn Hinchcliffe, Pink Pistols - Seattle; and Mike Silvers.

Persons Signed In To Testify But Not Testifying: None.