

SENATE BILL REPORT

SHB 1010

As of February 12, 2020

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: House Committee on Civil Rights & Judiciary (originally sponsored by 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: Passed House: 1/23/20, 56-42.

Committee Activity: Law & Justice: 2/12/20.

Brief Summary of First Substitute Bill

- Authorizes the Washington State Patrol (WSP) to destroy legal firearms forfeited to the agency.
- Requires WSP to develop and adopt policies addressing criteria for when forfeited firearms should be destroyed.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Shani Bauer (786-7468)

Background: The court may order forfeiture of a firearm under certain circumstances. Those include when a firearm is proven to be:

- carried and concealed by a person without a concealed pistol license;
- sold without the required application;
- in the possession of a person who is prohibited from purchasing a firearm;
- in possession of a person arrested or free on bail or personal recognizance for committing a felony or nonfelony in which the firearm was used;
- in the possession of a person in public who is under the influence of alcohol or drugs;
- in the possession of a person found to have been mentally incompetent while in possession of the firearm when apprehended or who is thereafter committed; or
- used in violation of a court order or in the commission of a crime.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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 WSP on or after May 7, 1993, that are not needed for evidence must be disposed of as follows:

- illegal firearms must be destroyed;
- 10 percent of legal firearms may be retained by the WSP for agency use; and
- all other legal firearms must be auctioned or traded to licensed dealers.

WSP may keep any proceeds of an auction or trade.

Summary of Bill: Forfeited firearms in the possession of 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, WSP must develop and put in place policies addressing criteria for determining when firearms should be destroyed.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: This bill is a matter of respect and safety. We should respect the judgment of WSP enough to allow it to make its own decisions as to when to destroy a firearm in the interest of public safety. WSP is the only law enforcement agency that does not have the ability to destroy weapons. This puts WSP in the position of being an arms dealer. Many cities destroy all confiscated firearms as a matter of policy. It is also a matter of respect for survivors. Weapons seized by WSP have ended up back on the streets and used in crimes. A family member should not have to confront the reality that a weapon used to kill a loved one will end up back on the street.

WSP had been storing weapons for a significant period of time and now sells some of them online. The cost of recording entries and processing sales almost equals the money that it brings in.

There are too many guns in circulation already. The U.S. has 4 percent of the world population yet contains 47 percent of firearms. We are number one in the civilized world for gun fatalities. It is just a matter of time before a confiscated gun winds up in a murder or suicide. WSP recognizes this and does not want their fingerprints on these weapons.

Gun violence prevention is one of the top priorities for parent teacher associations. Gun violence impacts everyone, including those indirectly involved. Children must do lockdown drills for active shooter situations. The probability might be very small that a confiscated gun will be used in a crime, but the cost is very high.

CON: In testifying on firearm bills, we try to show that these proposals are based on emotion rather than common sense. This bill is the poster child for that idea. Any firearm sold by WSP is subject to same background check requirements as the sale of other firearms. A firearm does not intrinsically carry evil intent and is more likely to be purchased by a law abiding citizen for self-defense than to be used in a crime. WSP has testified in the past that it would feel bad or embarrassed if a firearm once in their possession were used in a crime. If passed, WSP will find it easier to destroy all firearms than face the uncomfortable possibility that a firearm might be used inappropriately.

Persons Testifying: PRO: Representative Tana Senn, Prime Sponsor; David O'Connor, citizen; Leanne Kennedy, citizen; Jay Ward, citizen; Kate Levin, PTA.

CON: Tom Kweciak, National Rifle Association.

Persons Signed In To Testify But Not Testifying: No one.