



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5816 (Substitute H-2 as reported without amendment)
Sponsor: Representative Greg Kaza
House Committee: Conservation, Environment and Great Lakes
Senate Committee: Judiciary

CONTENT

The bill would amend the Michigan Penal Code to provide that, before a firearm that was carried, possessed, or used illegally was turned over for disposal, the police agency that recovered or confiscated the weapon would have to determine if there was a known legal owner and whether the firearm had been reported stolen. If the police agency determined that a serial number had been eradicated from the firearm, it would have to submit the weapon to the Department of State Police or a forensic laboratory for serial number restoration to determine legal ownership. If the police agency determined that the firearm had been stolen, it would have to notify the agency reporting the theft and return the firearm to that agency at the conclusion of the criminal case. The receiving agency would have to notify the legal owner and provide for disposition of the firearm in compliance with the bill.

If the owner were not alleged to have been involved in the violation or did not knowingly allow the firearm's illegal possession, notification would have to be given at the conclusion of the criminal case but not later than 90 days before the firearm was to be disposed of. The police agency would have to return a firearm if the owner claimed it within the notification period and the police agency determined that the owner was not involved in the violation. Except when retained for a criminal case, a firearm would have to be returned within 30 days after it was claimed, unless the owner was prohibited under State or Federal law from possessing a firearm. An individual claiming ownership of a firearm could petition the circuit court for return of the weapon if the police agency denied its return or if the firearm were not returned within 30 days. The police agency could not dispose of a firearm until the expiration of the 30-day period or, if a petition were filed, until permitted by the court to do so.

A police agency would have to turn confiscated weapons over to the Department of State Police for disposal within one year after final conclusion of the criminal case and expiration of the appeal period. The police agency first would have to make a reasonable effort to contact the owner of the firearm to determine whether a demand for the firearm was forthcoming.

Proposed MCL 750.239a

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on the Department of State Police. Department policies already reflect those that would be mandated by the bill. In 1995, the State Police destroyed 7,532 handguns and 6,850 long guns. Among local law enforcement agencies, most larger agencies already check firearms for ownership. For the local units that do not currently follow the procedures outlined in the bill, some minor administrative costs would result.

Date Completed: 12-4-96

Fiscal Analyst: B. Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.