

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 1052 (as passed by the Senate)
Sponsor: Senator Dave Jaye
Committee: Hunting, Fishing and Forestry

Date Completed: 5-4-98

RATIONALE

Under the handgun licensure Act, all pistols, weapons or devices carried or possessed contrary to the Act are declared forfeited to the State, and must be turned over to the Michigan State Police Commissioner or his or her designated representative, for such disposition as the Commissioner may prescribe. In general, firearms that were used in felonies or assaults are destroyed, long guns and handguns that were found also are destroyed, and all other firearms that were seized or stolen are held in evidence. The current procedure for returning seized or stolen firearms varies within each county. Some people have suggested that the owner of a seized or stolen firearm should be notified in writing that he or she could recover or claim the firearm. In addition, it has been suggested, an individual claiming ownership interest in a seized firearm being purchased should be able to pay the balance due on the purchase agreement to fulfill the ownership interest of a seized firearm.

CONTENT

The bill would amend the handgun licensure Act to require a police agency that seized a firearm for forfeiture under the Act to review police records and the Law Enforcement Information Network to determine who owned the firearm and whether it was reported stolen. The police agency would then be required immediately to inform each owner in writing that the firearm had been recovered or was being held as evidence of a crime, and allow any owner to claim the firearm within 30 days after the notification. After the 30-day period, the police agency would promptly have to turn over the firearm to the Department of State Police or, if the firearm were in the possession of the Department, it would have to dispose of the firearm as prescribed by the Michigan State Police

Commissioner. ("Police agency" would mean the Department of State Police, a county sheriff's department, a local police or public safety department, or a university or college police or public safety department.)

An individual claiming an ownership interest in a seized firearm would have to prove ownership by presenting documentary evidence. If the individual were claiming ownership in a seized firearm because he or she was in the process of purchasing it from an owner of the firearm, the individual would be entitled to perfect his or her ownership interest by paying the police agency the balance due on the purchase agreement. The bill, however, would not require the police agency to return a firearm to an individual who was prohibited by law from possessing it. The bill also would allow an individual claiming ownership of a seized firearm to petition the circuit court for return of the firearm if the return were denied by the police agency or if the firearm were not returned within the specified time period. If a petition were filed, the police agency could not turn the firearm over to the Department and the Department could not dispose of it until ordered by the court.

A police agency that seized a firearm for forfeiture would have to exercise reasonable care to protect the firearm from loss or damage while it was in the agency's custody, and could not deface or otherwise place a permanent mark on the firearm.

Proposed MCL 28.435

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would establish statutory procedures to allow a lawful owner to recover a seized or stolen firearm promptly and efficiently. It would require a police agency that seized a firearm for forfeiture to inform each owner in writing that the firearm had been recovered or was being held as evidence of a crime. Any owner could recover the firearm within a 30-day period after the notification, unless the owner was prohibited by law from possessing it. Reportedly, the Department of State Police melts down 15,000 firearms each year. Some of these could be returned to their rightful owners.

Supporting Argument

The bill would allow a person claiming ownership in a seized firearm to complete the ownership interest by paying the police agency the balance due on the purchase agreement. Apparently, a person who wishes to purchase a pistol at a gun show commonly leaves a deposit for the firearm he or she is interested in until the person obtains a license to purchase the firearm. (Currently, the Act requires a license from a local or county law enforcement official to purchase, carry, or transport a pistol.) If the firearm with the deposit were seized or stolen and recovered by the police agency before the person was able to purchase the firearm, the bill would allow the person to complete the purchase by paying the police agency the balance due on the purchase agreement.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill would have a minimal fiscal impact on State and local governments. Police agencies already make efforts to determine the owner of a firearm seized for forfeiture. The bill also could add to their costs by requiring them to give written notification to such individuals and to act as the receiver of funds for the purchase of a forfeited firearm. During calendar year 1997, police agencies turned over approximately 5,300 forfeited handguns and 3,500 forfeited long guns to the Department of State Police for disposal.

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.