

15.0925.03000

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. HB 1457

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, school districts, or townships. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Sheila Sandness
Senior Fiscal Analyst

15.0925.02000

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FISCAL NOTE STATEMENT

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Sheila Sandness
Senior Fiscal Analyst

2015 HOUSE JUDICIARY

HB 1457

2015 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1457
2/4/2015
23254

Subcommittee

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to forfeiture and disposition of firearms.

Minutes:

Testimony 1, Proposed amendment #2

Chairman K. Koppelman: Opened the hearing with testimony in support.

Rep. Karls: Introduced the bill. (See testimony #1):(28-5:15) (Proposed amendment #2) Sets out a procedure for the disposal of ceased, abundant or forfeiture firearms in the possession of state agencies. Inoperable or unsafe firearms maybe destroyed by the agency or turned over to state agencies for testing or to museums or historical societies. Other states have passed similar laws. If the lawful owner is not found or is unable to take possession of the firearms the agency would sell those firearms at a public auction to an individual that is lawfully eligible to receive it and/or to a licensed firearms dealer. In 2012 Georgia passed Senate bill 350 which mandates municipal, county and state police authorities return ceased firearms not currently being held as evidence in a criminal investigation to the lawful owner if able. If the lawful owner is not found or unable to take possession of the firearm this bill requires these agencies sell the firearms at a public auction to licensed firearm dealers. Previously Georgia law allowed firearms be destroyed and prevents this wasteful and expensive practice of destroying firearms that could be sold to federally licensed firearm dealers. Game & Fish visited me about Subsection 4 a on page 2 lines 26 & 27. The wording says any surplus to be transferred to the general fund of the jurisdiction in which the agency is located. This appears in conflict with ND Century Code 20.1-10 and the report of all poachers program. This is handled for them by the ND Wildlife Federation.

Rep. P. Anderson: What is they gift away a gun?

Rep. Karls: They would have to undergo a background check and receive it through an SSL. I believe the state would have to sell it at auction and they would be able to take part like any other state.

Chairman K. Koppelman: If it couldn't be returned to the owner does it have to be disposed of as the bill calls for?

Rep. Lois Delmore: If it was a domestic violence thing and you say give it to my brother and the brother decided he was really being good and he gave it back to you; I could see there could be a real conflict there.

Chairman K. Koppelman: What about the portion of the bill that requires federal firearms license dealer being the one the purchases it?

Rep. Karls: Yes

Chairman K. Koppelman: If it is going to be sold at auction then this would be an auction that could only be attended by firearms dealers; not the public.

Rep. Karls: We currently have auction by the Game & Fish Dept. which is actually through the ND Wildlife Federation. They have an FFL dealer when they conduct those auctions so it always has to go through that because of the background checks.

Rep. L. Klemin: On page 2, line 27 with surplus to be transferred to the general fund. We only have one general fund.

Rep. Karls: Say it is the county that forfeited or taken because of a crime?

Chairman K. Koppelman: Mirror the first page.

Rep. Karls: Because the Game & Fish money auction money goes to the Wildlife fund that is why they asked for that exception for them.

Rep. L. Klemin: Maybe there is a better way to phrase this general of the jurisdiction in which the agency is? Also questioned Page 3, line 23 and 24. It says neither state or any political subdivision or its officers or agency employees are liable unless the state or political subdivision acted with gross negligence or recklessness. The state or subdivision can't do that so maybe you want to say unless an officer or agent or employee of the state or political subdivision acted in gross negligence. Is that what you meant?

Rep. Karls: Good catch.

Chairman K. Koppelman: would that be liability against the individual then?

Rep. L. Klemin: The way I read this it is liability against the state or a political subdivision or any of their officers, agents or employees.

Rep. D. Larson: Page 2, line 21 where it says they have to have this auction minimum of every six months so if an agency confiscates one gun they have to hire an auctioneer and hold an auction for all these people to be able to dispose of one gun?

Rep. Karls: You can have an auction for one gun.

Rep. D. Larson: On page 3, Section 5 lines 6 & 7; the law enforcement agency has to certify so they have to be certifying firearms to be safe or unsafe and they are not gun dealers. I am curious since they are not gun dealers.

Rep. Karls: I can check on that language. We can visit with Game & Fish for wording on this.

Rep. D. Larson: I am guessing this is where the liability portion of this comes in if they are saying oh no it looks good to me and then it backfires and shots somebody's face off then I would guess they would be liable.

Rep. Karls: We can visit with Game & Fish. I am sure they have had a lot of experience with that.

Chairman K. Koppelman: Those lines you were talking about talk about a determination or a certification that the fire arm is unsafe; not that it is safe so I think they are not making a representation.

Rep. Karls: They may sell them as is for parts.

Rep. K. Wallman: Is it already in law if someone is a victim of gun violence it seems a little morbid that the state resells the gun that was used in that way and has it be out there.

Major Kelly Leban, Burleigh County Sheriff's Department: I support this bill but we do ask for a provision on the bill that law enforcement has the ability to destroy firearms if necessary. We do run into situation in case of a suicide or something like that where a family request that the weapon be destroyed. That would give us that ability to do that. Sometimes with these firearms we come across firearms that really have no resale value. There is a provision in the bill that allows for that auction to continue on for six months and that would put an undue burden on law enforcement to have to deal with that firearm when in fact it has no resale value.

Rep. G. Paur: Is suicide a felony?

Major Kelly Leban: It would be classified as an unattended death; so not a crime. Looking at the bill that would fall under subsection 2.

Rep. Mary Johnson: Seizing a gun is by motion so does the prosecutor move that the individual forfeit the gun? Page 1, line 10 what is in by motion? What happens if they never make the motion?

Major Leban: I can't answer that question for you. We do end up with firearms in our evidence that is kept there for a long time. Add on page 2 put it in there so we can dispose of those fire arms.

Rep. L. Klemin: So there would be some discursion in these cases.

Major Leban: We could add in to destroy the firearm on page 2 lines 15 where it says then the agency shall dispose of the firearms by sale at public auction as provided in this section or destroy the firearm. The innocent owner may abandon that weapon and then ask that it be destroyed.

Rep. L. Klemin: So there would be some limit on their discursion then; either they have to have the donor ask for it to be destroyed or it has no resale value. I am not sure we want to say you have the discursion in all cases for any reason to decide we are going to destroy this or for no reason at all.

Major Leban: Yes I agree with you. I think the wording could be such that it would be a limited discursion at that point to dispose of that weapon.

Rep. Lois Delmore: If the gun should be returned to me and they decide if don't want it can I say give it to my cousin or brother or is it just offered to the actual owner of the gun?

Major Leban: It would have to be auctioned off as the bill is written.

Ray Utter: I support this bill excepting items on page 2, line 4. Who is going to determine the proof of ownership? Section 2, line 7 if they have proof of ownership why would they have to go back through and pay for the fees for another background check?

Chairman K. Koppelman: I don't think the bill says you have to have a background check. I think it says if there is a fee the cost has to be borne by the owner.

Ray Utter: If it is in the law they will say you have to do that. No resale value is hard for a junk guy to say there is no resale value. Page 2, line 16-19 the way that is written that exempts private individual from buying guns. Page 2, line 24 we are back to the may question again?

Chairman K. Koppelman: I think you are right. Are you saying something should be in law what they have to do to notify people? A shall instead of a may notify.

Ray Utter: Page 3, line 6,7,8,9 were putting an onus to determine whether a firearm is safe or not. We already address later on in the documents that the state is not going to be liable of these items if they are found defective. I think we should remove that section. Unsafe because of age doesn't mean it doesn't have value to a collector.

Rep. L. Klemin: Is there a market for these morbid firearms?

Ray Utter: Yes there are TV shows etc.

Ray Utter: Yes sir.

Opposition: None

Neutral: None

House Judiciary Committee
HB 1457
February 4, 2015
Page 5

Hearing closed.

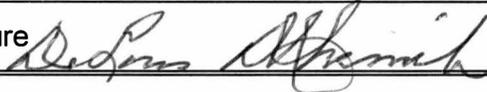
2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1457
2/17/2015
23998

- Subcommittee
 Conference Committee

Committee Clerk Signature



Minutes:

Proposed amendment #1

Chairman K. Koppelman: opened the meeting on HB 1457.

Rep. Karls: (See proposed amendment #1) (1:32-3:55) Went through the amendment.

Chairman K. Koppelman: Are we striking some of the language that is there now?

Rep. L. Klemin: The amendment with the first words the "the state or political subdivision, or" needs to be removed on page 3, line 23 since you cannot sue them.

Rep. Karls: Rep. Wallman said if this was used in a heinous crime and we addressed that on page 3, line 13. Game & Fish do an auction about every three years. An organization called the Wildlife Society runs it for them. They have a member who volunteers to be FFL for them so anyone may buy at that auction, but they go through that background back through that FFL. He sometimes stands there for 10 hours processing those applications. They have Game & Fish officers attend the auction because repeat offenders try to buy back their guns. The auction doesn't have to be an entire stock of firearms. It can be just one. They can put it out on line or advertise it very simply. That was another concern a person expressed.

Rep. L. Klemin: The way the bill reads now on page 2, line 18 they can only sell that to persons licensed, firearm collectors, dealers, importers or manufacturers. Rep. Karls just said that it wasn't limited, but any member of the public could purchase them also.

Chairman K. Koppelman: The amendment clarifies this. This is an auction for anyone.

Rep. L. Klemin: On Page 2, line 24 agencies may establish a procedure to notify persons of these auctions. Should that may be must?

Chairman K. Koppelman: I think so.

Rep. D. Larson: Page 2 line 15 we should add something to the effect or destroy the firearm because there is provision to destroy it in this says it has to be sold at public auction so this would be consistent.

Chairman K. Koppelman: What if on lines 14 & 15 delete the words by sale at public auction. Then it would just read shall disclose of the firearm as provided in this section.

Rep. D. Larson: Does it say every 6 months they have to be selling these? A political sub may have only one gun in six months whereas for the whole state they only have theirs every three years so that might be a high thing to make sure they have dealers and everyone lined up to be able to be at an auction.

Rep. Karls: From what I understand they don't want to hold onto them that long either.

Rep. D. Larson: It does seem like it is expecting too much?

Chairman K. Koppelman: I wonder if that isn't taken care of by the other part of the sentence where it says but in no event should an auction occur less frequently than once every six months during any time an agency has an inventory of saleable firearms. It doesn't define what an inventory is so I think that leave some wiggle room on the part of the agency.

Rep. D. Larson: So a gun that is being held in evidence wouldn't be part of their inventory.

Rep. G. Paur: If we put down three years then if they wanted to hold an auction every week they still can. At least we aren't pushing them for 6 months.

Chairman K. Koppelman: Do you think three years is too long? The point of the bill was trying to get them to do it sooner.

Rep. G. Paur: Maybe just increase it to a year?

Rep. Karls: My intent was to not have the wholesale destruction of fire arms. The timeline should probably be up to the agency. A year is certainly all right with me.

Chairman K. Koppelman: That is line 23 of page 2 so we can do this change with discussion.

Rep. P. Anderson: I had the same concern. It doesn't say how they have to do the sale so they could go with Game & Fish.

Rep. K. Wallman: If this took place and someone did use a weapon in a violent crime it was confiscated and that person's brother or neighbor or friend could purchase it and get it back to them? Does anyone still have concerns about that?

Chairman K. Koppelman: The amendment does deal with that.

Rep. K. Wallman: If there was a death involved or a sexual assault they could get it back again.

Chairman K. Koppelman: Any firearm confiscated by law enforcement has probably been the subject of something less than perfect so I think that is the kind of inventory we are dealing with. I think the amendment strikes a good balance.

Rep. D. Larson: I think this does not have to say if this involves a death of an individual. I don't like police being told they have to sell these guns back when they know the story behind them. Permitting it is one thing, but requiring it when we can't think of every circumstance that would be horrible to me personally for having them have that gun I think this is wrong. I am debating the amendment here, Mr. Chairman. I am talking about it involving the death of an individual.

Chairman K. Koppelman: What other guns with law enforcement have if they were not used in a violent crime? So what are you proposing?

Rep. D. Larson: In a violent crime and delete resulting in the death of an individual.

Chairman K. Koppelman: So what other guns would law enforcement have if they aren't guns that are used in a violent crime? Isn't that what they are going to be seizing?

Rep. K. Wallman: Maybe someone doesn't have a permit to conceal carry and they are pulled over for something?

Rep. L. Klemin: The question is what is a violent crime?

Chairman K. Koppelman: I think the amendment wording is pretty clear. It may not satisfy all the concern, but it is clear whether a death has occurred or not. We have the amendment before us and let's review what we have. We have what is written before you and also we have included in this amendment the removal of the words by sale at public auction on lines 14 & 15. We changed the word may to must in line 24. Changed 6 months to a year in line 23.

Rep. Mary Johnson: (mike not on)

Rep. Karls: When they purchase the guns at the wildlife auction the FFL is there in a volunteer capacity; he does the background check and that is included in the price of the weapon so they do not need to pay another background check.

Rep. D. Larson: You talked about Game & Fish selling every three years. Does this mean then they will have to sell every year?

Rep. Karls: We excluded Game & Fish with the first part of this amendment that they requested. When the political subdivision sells their weapons the money has to go back into their general funds. In the case of the wildlife society running this for game and fish the money they make over expenses goes into the RAP program which they run for Game and Fish.

Rep. Karls moved the amendment; Seconded by Rep. Maragos

Voice vote carried.

Rep. Kretschmar: (mike not on) North Dakota abolished sovereign amenity and here with this bill a little bit it is coming back in because it is much more difficult to prove gross negligence than ordinary negligence in a court. What was the reason for putting the gross negligence and reckless in here?

Chairman K. Koppelman: I suspect the thinking is when you are dealing with firearms they are dangerous weapons and if you sell something at an auction and it has a bad firing pin or something else and it doesn't work right or explodes or whatever they don't want liability there for the political subdivision.

Rep. K. Wallman: (mike not on)

Rep. Karls: It is parts taken from other states.

Do Pass As Amended Motion Made by Rep. Brabandt: Seconded by Rep. G. Paur

Roll Call Vote: 8 Yes 5 No 0 Absent Carrier: Rep. Karls

February 17, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1457

Page 1, line 21, after the underscored period insert "Except as provided in chapter 29-01 for stolen property, this section does not apply to firearms that are seized or confiscated and disposed of under chapter 20.1-10."

Page 2, line 18, after "persons" insert "that may lawfully possess a firearm and persons"

Page 2, line 25, remove "as"

Page 2, line 30, remove "be"

Page 3, line 13, after the underscored period insert "The requirements of subsection 4 do not apply to a firearm and an agency director, sheriff, chief of police, or a designee of the official may destroy the firearm, if the firearm was used in a violent crime resulting in the death of an individual, there is not a claim for the firearm by an innocent owner, and a family member of the deceased individual makes a written request for the destruction of the firearm."

Page 3, line 23, after "unless" insert "the state or political subdivision, or an officer, agent, or employee of"

Re-number accordingly

February 17, 2015

TW
2/17/15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1457

Page 1, line 21, after the underscored period insert "Except as provided in chapter 29-01 for stolen property, this section does not apply to firearms that are seized or confiscated and disposed of under chapter 20.1-10."

Page 2, line 14, remove "by sale at"

Page 2, line 15, remove "public auction"

Page 2, line 18, after "persons" insert "that may lawfully possess a firearm and persons"

Page 2, line 23, replace "six months" with "year"

Page 2, line 24, replace "may" with "shall"

Page 2, line 25, remove "as"

Page 2, line 30, remove "be"

Page 3, line 13, after the underscored period insert "The requirements of subsection 4 do not apply to a firearm and an agency director, sheriff, chief of police, or a designee of the official may destroy the firearm, if the firearm was used in a violent crime resulting in the death of an individual, there is not a claim for the firearm by an innocent owner, and a family member of the deceased individual makes a written request for the destruction of the firearm."

Page 3, line 23, after "unless" insert "an officer, agent, or employee of"

Renumber accordingly

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL NO. HB 1457**

House JUDICIARY Committee

Subcommittee Conference Committee

Amendment LC# or Description: 15.095.01002

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Other Actions: Reconsider _____

Motion Made By Vice Chairman Karls Seconded By Rep. Maragos

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman			Rep. Pamela Anderson		
Vice Chairman Karls			Rep. Delmore		
Rep. Brabandt			Rep. K. Wallman		
Rep. Hawken					
Rep. Mary Johnson					
Rep. Klemin					
Rep. Kretschmar					
Rep. D. Larson					
Rep. Maragos					
Rep. Paur					

Total (Yes) _____ No _____

Absent _____

Floor Assignment: _____

If the vote is on an amendment, briefly indicate intent:

Voice vote carried.

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL NO. HB 1457**

House JUDICIARY Committee

Subcommittee Conference Committee

Amendment LC# or Description: 15.095.01002

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Other Actions: Reconsider _____

Motion Made By Rep. Brabandt: Seconded By Rep. G. Paur

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	X		Rep. Pamela Anderson		X
Vice Chairman Karls	X		Rep. Delmore		X
Rep. Brabandt	X		Rep. K. Wallman		X
Rep. Hawken	X				
Rep. Mary Johnson	X				
Rep. Klemin	X				
Rep. Kretschmar		X			
Rep. D. Larson		X			
Rep. Maragos	X				
Rep. Paur	X				

Total (Yes) 8 No 5

Absent 0

Floor Assignment: Vice Chairman Karls:

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1457: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1457 was placed on the Sixth order on the calendar.

Page 1, line 21, after the underscored period insert "Except as provided in chapter 29-01 for stolen property, this section does not apply to firearms that are seized or confiscated and disposed of under chapter 20.1-10."

Page 2, line 14, remove "by sale at"

Page 2, line 15, remove "public auction"

Page 2, line 18, after "persons" insert "that may lawfully possess a firearm and persons"

Page 2, line 23, replace "six months" with "year"

Page 2, line 24, replace "may" with "shall"

Page 2, line 25, remove "as"

Page 2, line 30, remove "be"

Page 3, line 13, after the underscored period insert "The requirements of subsection 4 do not apply to a firearm and an agency director, sheriff, chief of police, or a designee of the official may destroy the firearm, if the firearm was used in a violent crime resulting in the death of an individual, there is not a claim for the firearm by an innocent owner, and a family member of the deceased individual makes a written request for the destruction of the firearm."

Page 3, line 23, after "unless" insert "an officer, agent, or employee of"

Renumber accordingly

2015 SENATE ENERGY AND NATURAL RESOURCES

HB 1457

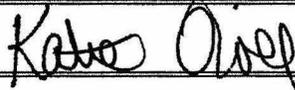
2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources
Fort Lincoln Room, State Capitol

HB 1457
3/19/2015
25120

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the forfeiture of firearms.

Minutes:

1 Attachment

Chairman Schaible called the committee to order, Representative Karls was on hand to introduce the bill.

Representative Karls: District 35. See attachment #1. (:04-3:45)

Chairman Schaible: Give me an example of what testing would include?

Representative Karls: Our BCI has areas where they test weapons; I am not sure what they would do with weapons that are inoperable.

Senator Triplett: You noted that the subsection 1 of section 1 of the bill is current law and it provides that they can be sold. Why all of the detail that is in the rest of the bill wouldn't be better in policy rather than state law?

Representative Karls: I believe that it lays it out for procedure to follow. We have a state agency that does a good job of disposing of weapons.

Senator Armstrong: Isn't one the reasons to lay it out that you are dealing with different agencies.

Representative Karls: That is correct.

Pat Heinert: Burleigh County Sheriff. In support of this, we made an adjustment on the House side. On page 3 line 19 it talks about not returning weapons that were used in a violent crime. It only covers violent crime; we are also concerned by accidents and self-inflicted gun shots, we would like something specific that says we can destroy the weapon if the family requests it.

Senator Murphy: Are you saying that departments will take a gun away in all incidents of accidental shooting.

Pat Heinert: It pertains to if it happens to someone else or death as a result of an accidental shooting.

Chairman Schaible: You would want a request to destroy that rather than donate it or sell it.

Pat Heinert: The law says that the family needs to request in writing and we like that part in there.

Chairman Schaible then closed the public hearing on HB 1457.

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources
Fort Lincoln Room, State Capitol

HB 1457
4/2/2015
25745

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the forfeiture of firearms.

Minutes:

1 Attachment

Chairman Schaible opened the committee work on HB 1457.

Senator Murphy handed out amendment # 15.0925.02001 and explained the changes that it would make to the bill. See attachment #1.

Senator Armstrong made a motion to adopt amendment number .02001 with a second by Vice Chair Unruh. There was no further discussion, roll was taken and the amendment was adopted on a 7-0-0 count.

Senator Armstrong made a motion for a do pass as amended with a second by Vice Chair Unruh. There was no further discussion, roll was taken and the motion passed on a 7-0-0 count with Senator Murphy carrying the bill to the floor.

There was no further discussion and Chairman Schaible closed the committee work on HB 1457.

4/12/15
JAE

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1457

Page 1, line 2, after "firearms" insert "; and to provide for application"

Page 3, line 8, after "5." insert "a."

Page 3, line 19, replace the first "the" with ";

(1) The"

Page 3, line 19, after "crime" insert ", in an accidental shooting, or a self-inflicted shooting"

Page 3, line 19, replace ", there" with ";

(2) There"

Page 3, line 20, replace the underscored comma with an underscored semicolon

Page 3, line 20, replace the second "a" with:

(3) A"

Page 3, after line 21, insert:

"b."

Page 3, line 22, replace "section" with "subsection"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1457, as engrossed: Energy and Natural Resources Committee (Sen. Schaible, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1457 was placed on the Sixth order on the calendar.

Page 1, line 2, after "firearms" insert "; and to provide for application"

Page 3, line 8, after "5." insert "a."

Page 3, line 19, replace the first "the" with ":

(1) The"

Page 3, line 19, after "crime" insert ", in an accidental shooting, or a self-inflicted shooting"

Page 3, line 19, replace ", there" with ":

(2) There"

Page 3, line 20, replace the underscored comma with an underscored semicolon

Page 3, line 20, replace the second "a" with:

(3) A"

Page 3, after line 21, insert:

"b."

Page 3, line 22, replace "section" with "subsection"

Re-number accordingly

2015 TESTIMONY

HB 1457

#1
HB 1457
2-4-15

Rep. Karen Karls, District 35, Bismarck

Testimony on HB 1457

House Judiciary Committee -- February 4, 2015

Mr. Chairman and members of the committee:

HB 1457 sets out a procedure for the disposal of seized, abandoned or forfeited firearms in the possession of state agencies. If the owner cannot be located or does not reclaim his or her firearm, then the firearm, as long as it's in a safe and operable condition, would have to be offered for sale at auction. Inoperable or unsafe firearms may be destroyed by the agency or turned over to state agencies for testing, or to museums or historical societies.

Other states have passed similar legislation. Indiana, which has a firearms "Buy-back Program" recently passed legislation that requires all city or town law enforcement agencies to return seized firearms to their rightful owner within 120 days following final disposition of the case. If the lawful owner is not found or is unable to take possession of the firearm, the agencies would sell these firearms at a public auction to an individual that is lawfully eligible to receive it or to a licensed firearms dealer.

In 2012, Georgia passed SB 350 which mandates municipal, county and state police authorities return all seized firearms, not currently being held as evidence in a criminal investigation, to the lawful owner, if able. If the lawful owner is not found or unable to take possession of the firearm, SB 350 requires these agencies sell the firearms at a public auction to licensed firearms dealers. Previous Georgia law allowed for seized guns to be immediately destroyed. SB 350 prevents the wasteful and expensive practice of destroying firearms that could be sold to federally licensed firearms dealers.

Granted, North Dakota is not in the business of wholesale destruction of firearms, nor do we have a “buy-back” program like some other states. HB 1457 is both pre-emptive and permissive. Section 1, subsection 1 of the bill is what is currently stated in code. The rest of the language is new; it lays out the process to:

- Return a firearm to the innocent owner, if possible
- Sell at a public auction
- Dispose of firearms, not able to be sold
- Disburse the proceeds and keep records
- Stipulate what is meant by “innocent owner”

Game and Fish visited with me about subsection 4.a. on page 2, lines 26 & 27, “any surplus to be transferred to the general fund of the jurisdiction in which the agency is located”. This appears to conflict with NDCC 20.1-10 and the Report All Poachers program. This is handled by the ND Wildlife Federation. Their request is:

On page 1, line 21, after section. Insert: Except as provided in chapter 29-01 for stolen property, this section does not apply to guns that are seized or confiscated and disposed of pursuant to Chapter 20.1-10.

Under HB 1457, guns that are to be disposed of would be sold at auction to an FFL dealer and this is a good practice for North Dakota—to set out a procedure for the disposal of seized, abandoned or forfeited firearms in the possession of state agencies.

15.0925.01001
Title.

Prepared by the Legislative Council staff for Representative Karls
February 3, 2015

#2
HB1457
2-4-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1457

Page 1, line 21, after the underscored period insert "Except as provided in chapter 29-01 for stolen property, this section does not apply to firearms that are seized or confiscated and disposed of under chapter 20.1-10."

Page 2, line 18, after "persons" insert "that may lawfully possess a firearm and persons"

Page 2, line 25, remove "as"

Page 2, line 30, remove "be"

Renumber accordingly

February 17, 2015

#1
HB1457
2-17-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1457

Page 1, line 21, after the underscored period insert "Except as provided in chapter 29-01 for stolen property, this section does not apply to firearms that are seized or confiscated and disposed of under chapter 20.1-10."

Page 2, line 18, after "persons" insert "that may lawfully possess a firearm and persons"

Page 2, line 25, remove "as"

Page 2, line 30, remove "be"

Page 3, line 13, after the underscored period insert "The requirements of subsection 4 do not apply to a firearm and an agency director, sheriff, chief of police, or a designee of the official may destroy the firearm, if the firearm was used in a violent crime resulting in the death of an individual, there is not a claim for the firearm by an innocent owner, and a family member of the deceased individual makes a written request for the destruction of the firearm."

Page 3, line 23, after "unless" insert "the state or political subdivision, or an officer, agent, or employee of"

Renumber accordingly

Rep. Karen Karls, District 35, Bismarck

Testimony on HB 1457

Senate Judiciary Committee -- March 19, 2015

Mr. Chairman and members of the committee:

HB 1457 sets out a procedure for the disposal of seized, abandoned or forfeited firearms in the possession of state agencies. If the owner cannot be located or does not reclaim his or her firearm, then the firearm, as long as it's in a safe and operable condition, would be offered for sale at auction. Inoperable or unsafe firearms may be destroyed by the agency or turned over to state agencies for testing, or to museums or historical societies.

Other states have passed similar legislation. Indiana, which has a firearms "Buy-back Program" recently passed legislation that requires all city or town law enforcement agencies to return seized firearms to their rightful owner within 120 days following final disposition of the case. If the lawful owner is not found or is unable to take possession of the firearm, the agencies would sell these firearms at a public auction to an individual that is lawfully eligible to receive it or to a licensed firearms dealer.

In 2012, Georgia passed SB 350 which mandates municipal, county and state police authorities return all seized firearms, not currently being held as evidence in a criminal investigation, to the lawful owner, if able. If the lawful owner is not found or is unable to take possession of the firearm, the Georgia law requires these agencies sell the firearms at a public auction to licensed firearms dealers. Previous Georgia law allowed for seized guns to be immediately destroyed. SB 350 prevents the wasteful and expensive practice of destroying firearms that could be sold and used for hunting or for protecting property.

Granted, North Dakota is not in the business of wholesale destruction of firearms, nor do we have a “buy-back” program like some other states. HB 1457 is both pre-emptive and permissive. Section 1, subsection 1 of the bill is what is currently stated in code. The rest of the language is new; it lays out the process:

- **To return a firearm to the innocent owner, if possible**
- **To sell at a public auction**
- **To dispose of firearms, not able to be sold**
- **To disburse the proceeds and keep records, and**
- **To stipulate what is meant by “innocent owner”**

HB 1457 also covers a firearm involved in a violent crime—the owner or family members may request in writing the firearm be destroyed by the law enforcement entity, when no longer needed for evidence. *(Page 3, lines 18-21)*

Under HB 1457, guns that are to be disposed of would be sold at auction to persons that may lawfully possess a firearm or to an FFL dealer and this is a good practice for North Dakota—to set out a procedure for the disposal of seized, abandoned or forfeited firearms in the possession of state agencies.

March 24, 2015

Attachment 1
4/2/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1457

Page 3, line 8, after "5." insert "a."

Page 3, line 19, replace the first "the" with ":

(1) The"

Page 3, line 19, after "crime" insert ", in an accidental shooting, or a self-inflicted shooting"

Page 3, line 19, replace ", there" with ":

(2) There"

Page 3, line 20, replace the underscored comma with an underscored semicolon

Page 3, line 20, replace the second "a" with:

(3) A"

Page 3, after line 21, insert:

"b."

Page 3, line 22, replace "section" with "subsection"

Renumber accordingly