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DESTRUCTION OF FORFEITED FIREARMS

House Bill 5813 (Substitute H-1)
House Bills 5816 and 5817
Sponsor: Rep. Greg Kaza
Committee: Conservation, Environment
and Great Lakes

Complete to 9-24-96

A SUMMARY OF HOUSE BILLS 5813 (SUBSTITUTE H-1), AND HOUSE BILLS 5816 AND 5817 AS INTRODUCED 4-25-96

House Bills 5813, 5816, and 5817 would establish restrictions on how the Department of State Police could dispose of forfeited firearms.

House Bill 5813 would amend the Handgun Licensure Act (MCL 28.421, et al.) to regulate the manner in which the Department of State Police may dispose of firearms forfeited under the Michigan Penal Code or the Handgun Licensure Act for illegal possession or use. Under the bill, before a gun that was subject to forfeiture could be disposed of, the department would be required to determine whether the firearm had been stolen and who was the rightful owner of the firearm through examination of the all of the relevant records including, but not limited to, the law enforcement information network (LEIN) and stolen property reports.

The bill would then require the state police to inform the firearm's owner of the department's intent to dispose of the gun in writing at least 30 days prior to the disposal. However, if the owner of the gun was not alleged to have been involved in the violation that lead to the gun's forfeiture, the notification would have to be provided at least 90 days prior to the disposal of the gun. In either case, notification would have to be made by certified mail sent to the owner's last known address.

After having been notified of the department's intent to dispose of the firearm, the owner of the gun could assert a claim to the firearm within the notification period prior to its disposal. If the owner claimed the gun and the department determined that the owner had not been involved in the violation for which the gun had been seized, the department would be required to return the gun to the owner within 30 days of the owner's claim. If the department either refused to return a gun that had been claimed by its owner or failed to return it within 30 days after it had been claimed, the person claiming an ownership interest in the gun could petition the circuit court for the return of the gun.

The department could not dispose of a forfeited firearm until the 30-day period had expired or, if a petition had been filed in court, until the court permitted it to do so. The bill would also restrict the manner in which the Department of State Police could dispose of seized firearms. Specifically, firearms that had historical value could be donated to public museums, while firearms that were suitable for law enforcement purposes could be donated to a law enforcement agency,

and all other firearms would have to be destroyed. Donations of firearms to museums or law enforcement agencies would have to be made in compliance with state and federal law and the number of firearms donated to a single entity could be limited by the department.

House Bill 5816 would amend the Michigan Penal Code (MCL 750.239) to require that a firearm forfeited under the provisions of the penal code would have to be disposed of in accordance with the provisions of the Handgun Licensure Act as amended by House Bill 5813.

House Bill 5817 would amend the Governmental Immunity Act (MCL 691.1401 et al.) to allow the Department of State Police to be held civilly liable for destroying a firearm in violation of the provisions of House Bill 5813 or the Michigan Penal Code as amended by House Bill 5816.

All three bills are all tie-barred together.

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.