

HOUSE BILL No. 4431

February 24, 2009, Introduced by Reps. Meadows, LeBlanc, Hammel and Gonzales and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 239 and 239a (MCL 750.239 and 750.239a),
section 239a as added by 1996 PA 496.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 239. (1) ~~All~~ **EXCEPT AS PROVIDED IN SUBSECTION (2) AND**
2 **SUBJECT TO SECTION 239A, ALL** pistols, weapons, or devices carried,
3 possessed, or used contrary to this chapter are ~~hereby~~ declared
4 forfeited to the state, ~~—~~ and shall be turned over to the
5 ~~commissioner of the Michigan state police or his designated~~
6 ~~representative,~~ **DEPARTMENT OF STATE POLICE** for ~~such~~ disposition as
7 ~~the commissioner may prescribe~~ **DETERMINED APPROPRIATE BY THE**
8 **DIRECTOR OF THE DEPARTMENT OF STATE POLICE.**

(2) THIS SECTION DOES NOT PROHIBIT A POLICE AGENCY FROM
RETAINING ANY PISTOL, WEAPON, OR DEVICE CARRIED OR POSSESSED IN
VIOLATION OF THIS CHAPTER FOR OFFICIAL USE BY THAT POLICE AGENCY,
INCLUDING FOR TRAINING OR EDUCATIONAL PURPOSES. THE POLICE AGENCY
SHALL COMPLY WITH THE REQUIREMENTS OF SECTION 239A FOR ANY PISTOL,
WEAPON, OR DEVICE RETAINED UNDER THIS SUBSECTION. AS USED IN THIS
SUBSECTION, "POLICE AGENCY" MEANS 1 OR MORE OF THE FOLLOWING:

(A) THE DEPARTMENT OF STATE POLICE.

(B) THE POLICE DEPARTMENT OF A CITY, VILLAGE, OR TOWNSHIP.

(C) THE POLICE DEPARTMENT OR PUBLIC SAFETY DEPARTMENT OF A
COMMUNITY COLLEGE, COLLEGE, OR UNIVERSITY.

(D) A COUNTY SHERIFF'S DEPARTMENT.

(E) THE LAW ENFORCEMENT DIVISION OF THE DEPARTMENT OF NATURAL
RESOURCES.

Sec. 239a. (1) Before a firearm is turned over for disposal
under section ~~239~~ 239(1) OR IS RETAINED UNDER SECTION 239(2), the
police agency that recovered or confiscated the firearm shall
determine if there is a known legal owner of the firearm and
whether the firearm has been reported stolen. If the police agency
determines a serial number has been eradicated from the firearm,
the police agency shall submit the firearm to the department of
state police or a forensic laboratory for serial number restoration
to determine legal ownership. In making the determination of
ownership required under this subsection, the police agency shall
review information contained in the law enforcement information
network and examine that police agency's stolen property reports.
If the police agency determines the firearm is stolen, the police

1 agency shall notify the agency reporting the firearm as stolen and
2 return the firearm to that agency at the conclusion of the criminal
3 case. The agency receiving the firearm shall notify the legal owner
4 and provide for disposition of the firearm in compliance with
5 subsections (3) and (4).

6 (2) If the owner is not alleged to have been involved in the
7 violation for which forfeiture is required or did not knowingly
8 allow the firearm to be possessed illegally, notification shall be
9 given at the conclusion of the criminal case but not later than 90
10 days before the firearm is disposed of **OR RETAINED** under section
11 239. Notification under this subsection may be given by certified
12 mail sent to the owner's last known address, or by personal contact
13 with the owner.

14 (3) The police agency shall return a firearm to its owner if
15 the owner claims the firearm within the notification period and
16 that police agency determines that the owner was not involved in
17 the violation for which the firearm was seized. Except as otherwise
18 provided in subsection (2), a firearm shall be returned under this
19 subsection within 30 days after the firearm is claimed by the owner
20 unless the owner is prohibited from possessing a firearm under
21 state or federal law.

22 (4) An individual claiming ownership of a firearm may petition
23 the circuit court for return of a firearm under this section if
24 return of the firearm is denied by the police agency or if the
25 firearm is not returned within 30 days as required under subsection
26 (3). The police agency shall not dispose of **OR RETAIN** a firearm
27 until the expiration of the 30-day period or, if a petition is

1 filed under this subsection, until permitted to do so by the court.

2 (5) A police agency shall turn confiscated weapons over to the
3 department of state police under section ~~239~~**239(1)** not more than 1
4 year after final conclusion of the criminal case and expiration of
5 the appeal period. The police agency shall first make a reasonable
6 effort to contact the owner of the firearm to determine whether a
7 demand for the firearm is forthcoming.

8 (6) A police agency that seizes a firearm for forfeiture under
9 this act shall exercise reasonable care to protect the firearm from
10 loss or damage while the firearm is in its custody.

11 (7) As used in this section, "police agency" means 1 or more
12 of the following:

13 (a) The department of state police.

14 (b) A county sheriff's department.

15 (c) ~~A-**THE**~~ police department or public safety department of a
16 ~~local unit of government~~**CITY, VILLAGE, OR TOWNSHIP.**

17 (d) ~~A-**THE**~~ police department or public safety department of a
18 **COMMUNITY COLLEGE,** college, or university.

19 **(E) THE LAW ENFORCEMENT DIVISION OF THE DEPARTMENT OF NATURAL**
20 **RESOURCES.**