

SENATE BILL No. 7

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-47-3.

Synopsis: Retention of confiscated firearms. Allows a law enforcement agency that possesses certain confiscated firearms to retain the firearms for the purpose of training law enforcement officers in the proper use of the firearms or for other law enforcement duties.

Effective: July 1, 2014.

Arnold J

January 6, 2014, read first time and referred to Committee on Corrections & Criminal Law.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 7



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-47-3-2, AS AMENDED BY P.L.119-2012,
2 SECTION 167, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) This section applies only to
4 firearms which are not required to be registered in the National
5 Firearms Registration and Transfer Record.
6 (b) Firearms shall be returned to the rightful owner at once
7 following final disposition of the cause if a return has not already
8 occurred under the terms of IC 35-33-5. If the rightful ownership is not
9 known, the law enforcement agency holding the firearm shall make a
10 reasonable attempt to ascertain the rightful ownership and cause the
11 return of the firearm. However, nothing in this chapter shall be
12 construed as requiring the return of firearms to rightful owners who
13 have been convicted for the misuse of firearms. In such cases, the court
14 may provide for the return of the firearm in question or order that the
15 firearm be at once delivered:
16 (1) except as provided in subdivision (2), to the sheriff's



1 department of the county in which the offense occurred; or

2 (2) to the city or town police force that confiscated the firearm, if:

3 (A) a member of the city or town police force confiscated the
4 firearm; and

5 (B) the city or town has a population of more than two
6 thousand five hundred (2,500) and less than six hundred
7 thousand (600,000).

8 (c) The receiving law enforcement agency shall **choose to** dispose
9 of **or retain** firearms under subsection (b), at the discretion of the law
10 enforcement agency, not more than one hundred twenty (120) days
11 following receipt by use of any of the following procedures:

12 (1) Public sale of the firearms to the general public as follows:

13 (A) Notice of the sale shall be:

14 (i) posted for ten (10) days in the county courthouse in a
15 place readily accessible to the general public; and

16 (ii) advertised in the principal newspaper of the county for
17 two (2) days in an advertisement that appears in the
18 newspaper at least five (5) days prior to the sale.

19 (B) Disposition of the firearm shall be by public auction in a
20 place convenient to the general public, with disposition going
21 to the highest bidder. However, no firearm shall be transferred
22 to any bidder if that bidder is not lawfully eligible to receive
23 and possess firearms according to the laws of the United States
24 and Indiana.

25 (C) All handguns transferred under this subdivision shall also
26 be transferred according to the transfer procedures set forth in
27 this article.

28 (D) Money collected pursuant to the sales shall first be used to
29 defray the necessary costs of administering this subdivision
30 with any surplus to be:

31 (i) deposited into the receiving law enforcement agency's
32 firearms training fund, if the law enforcement agency is a
33 county law enforcement agency, or into a continuing
34 education fund established under IC 5-2-8-2, if the law
35 enforcement agency is a city or town law enforcement
36 agency; and

37 (ii) used by the agency exclusively for the purpose of
38 training law enforcement officers in the proper use of
39 firearms or other law enforcement duties, if the law
40 enforcement agency is a county law enforcement agency, or
41 for law enforcement purposes, if the law enforcement
42 agency is a city or town law enforcement agency.



- 1 (2) Sale of the firearms to a licensed firearms dealer as follows:
 2 (A) Notice of the sale must be:
 3 (i) posted for ten (10) days in the county courthouse in a
 4 place readily accessible to the general public; and
 5 (ii) advertised in the principal newspaper of the county for
 6 two (2) days in an advertisement that appears in the
 7 newspaper at least five (5) days before the sale.
 8 (B) Disposition of the firearm shall be by auction with
 9 disposition going to the highest bidder who is a licensed
 10 firearms dealer.
 11 (C) Money collected from the sales shall first be used to defray
 12 the necessary costs of administering this subdivision and any
 13 surplus shall be:
 14 (i) deposited into the receiving law enforcement agency's
 15 firearms training fund or other appropriate training activities
 16 fund; and
 17 (ii) used by the agency exclusively for the purpose of
 18 training law enforcement officers in the proper use of
 19 firearms or other law enforcement duties.
 20 (3) Sale or transfer of the firearms to another law enforcement
 21 agency.
 22 (4) Release to the state police department laboratory or other
 23 forensic laboratory administered by the state or a political
 24 subdivision (as defined in IC 36-1-2-13) for the purposes of
 25 research, training, and comparison in conjunction with the
 26 forensic examination of firearms evidence.
 27 **(5) Retention of the firearms by the receiving law enforcement**
 28 **agency to be used by the receiving law enforcement agency for**
 29 **the purpose of training law enforcement officers in the proper**
 30 **use of the firearms or for other law enforcement duties.**
 31 ~~(5)~~ **(6)** Destruction of the firearms.
 32 (d) Notwithstanding the requirement of this section mandating
 33 disposal **or retention** of firearms not more than one hundred twenty
 34 (120) days following receipt, **if a receiving law enforcement agency**
 35 **chooses to dispose of firearms**, the receiving law enforcement agency
 36 may ~~at its discretion~~ hold firearms it may receive until a sufficient
 37 number has accumulated to defray the costs of administering ~~this~~
 38 ~~section~~ **the disposal of the firearms** if a delay does not exceed one
 39 hundred eighty (180) days from the date of receipt of the first firearm
 40 in the sale lot. In any event, all confiscated firearms **that are to be**
 41 **disposed of** shall be disposed of as promptly as possible.
 42 (e) When a firearm is delivered to the state police department



1 laboratory or other forensic laboratory under subsection (c)(4) and the
2 state police department laboratory or other forensic laboratory
3 determines the laboratory has no further need for the firearm in
4 question, the laboratory shall return the firearm to the law enforcement
5 agency for disposal **or retention** under subsection (c).

6 SECTION 2. IC 35-47-3-3, AS AMENDED BY P.L.119-2012,
7 SECTION 168, IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) This section applies to
9 firearms that are required to be registered in the National Firearms
10 Registration and Transfer Record.

11 (b) Firearms shall be returned to the rightful owner at once
12 following final disposition of the cause, if such return has not already
13 occurred under the terms of IC 35-33-5, and if such owner remains
14 lawfully entitled to possess such firearms according to applicable
15 United States and Indiana statutes. If rightful ownership is not known,
16 the law enforcement agency holding the firearm shall make a
17 reasonable and diligent effort to ascertain the rightful ownership and
18 cause the return of the firearm being held, providing the owner remains
19 lawfully entitled to possess such firearms.

20 (c) Firearms that are not returnable under this section shall be at
21 once delivered to:

22 (1) the sheriff's department of the county in which the offense
23 occurred, unless subdivision (2) applies; or

24 (2) the city or town police force that confiscated the firearm if:

25 (A) a member of the city or town police force confiscated the
26 firearm; and

27 (B) the city or town has a population of more than two
28 thousand five hundred (2,500) and less than six hundred
29 thousand (600,000);

30 following final disposition of the cause.

31 (d) When firearms are sent to a law enforcement agency under
32 subsection (c), the law enforcement agency may upon request release
33 the firearms to the state police department laboratory or other forensic
34 laboratory administered by the state or a political subdivision (as
35 defined in IC 36-1-2-13) for the purposes of research, training, and
36 comparison in conjunction with the forensic examination of firearms
37 evidence.

38 (e) The receiving law enforcement agency or laboratory shall cause
39 the registry of such firearms in the United States National Firearms
40 Registration and Transfer Record within thirty (30) days following
41 receipt from the court.

42 (f) The court may order such firearms as are not returnable



1 destroyed, specifying the exact manner of destruction and requiring the
2 receiving law enforcement agency or laboratory to make due return to
3 the ordering court the time, date, method of destruction, and disposition
4 of the remains of the destroyed firearm.

5 (g) No portion of this section shall be construed as requiring:

6 (1) the receiving law enforcement agency or laboratory to retain
7 firearms:

8 (A) which are inoperable or unserviceable; or

9 (B) which the receiving law enforcement agency or laboratory
10 may choose to transfer as public property in the ordinary
11 course of lawful commerce and exchange; or

12 **(2) the receiving law enforcement agency to dispose of**
13 **firearms that the receiving law enforcement agency may**
14 **choose to retain for the purpose of training law enforcement**
15 **officers in the proper use of the firearms or for other law**
16 **enforcement duties.**

