

# Senate Bill 342

Sponsored by Senator BAERTSCHIGER JR (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires agency, board, commission or other instrumentality of state that lawfully seizes firearm to transfer firearm to Department of State Lands for disposition as unclaimed property. Requires department to deposit proceeds of sale of firearm into Emergency Housing Account and directs Housing and Community Services Department to disburse moneys deposited for purposes of assisting persons who are homeless or at risk of becoming homeless.

## A BILL FOR AN ACT

1  
2 Relating to the disposition of firearms lawfully seized by the state; creating new provisions; and  
3 amending ORS 131.597, 131A.350 and 166.279.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) Notwithstanding any other law governing dispositions of firearms that**  
6 **an agency, board, commission or other instrumentality of the state seizes or obtains by**  
7 **forfeiture, an agency, board, commission or other instrumentality of the state that lawfully**  
8 **seizes, or obtains by forfeiture, a firearm under circumstances in which the original owner**  
9 **of the firearm may not lawfully demand the return of the firearm shall transfer the firearm**  
10 **as soon as is practicable to the Department of State Lands for disposition in accordance with**  
11 **ORS 98.382. For the purpose of the disposition, a firearm lawfully seized as described in this**  
12 **subsection is unclaimed property.**

13 **(2) Notwithstanding the requirements in ORS 98.386 for disposing of the proceeds of a**  
14 **sale of unclaimed property under ORS 98.382, the department shall deposit the proceeds of**  
15 **a sale of a firearm seized as described in subsection (1) of this section into the State Treas-**  
16 **ury to the credit of the Emergency Housing Account created under ORS 458.620. The Housing**  
17 **and Community Services Department shall disburse moneys deposited into the Emergency**  
18 **Housing Account in accordance with this section for the purposes set forth in ORS 458.650.**

19 **SECTION 2.** ORS 131.597 is amended to read:

20 131.597. (1) After the seizing agency distributes property under ORS 131.588, and when the  
21 seizing agency is the state or when the state is the recipient of property forfeited under ORS 131.550  
22 to 131.600, the seizing agency shall dispose of and distribute property as follows:

23 (a) The seizing agency shall pay costs first from the property or its proceeds. As used in this  
24 subsection, "costs" includes the expenses of publication, service of notices, towing, storage and  
25 servicing or maintaining the seized property under ORS 131.564.

26 (b) After costs have been paid, the seizing agency shall distribute to the victim any amount the  
27 seizing agency was ordered to distribute under ORS 131.588 (4).

28 (c) Of the property remaining after costs have been paid under paragraph (a) of this subsection  
29 and distributions have been made under paragraph (b) of this subsection, the seizing agency shall  
30 distribute:

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 (A) Three percent to the Asset Forfeiture Oversight Account established in ORS 131A.460;

2 (B) Seven percent to the Illegal Drug Cleanup Fund established in ORS 475.495 for the purposes  
3 specified in ORS 475.495 (5) and (6);

4 (C) Ten percent to the state General Fund;

5 (D) Subject to subsection (5) of this section, 40 percent to the Department of State Police or the  
6 Department of Justice for official law enforcement use; and

7 (E) Forty percent to the Drug Prevention and Education Fund established in ORS 430.422.

8 (2)(a) Any amount paid to or retained by the Department of Justice under subsection (1) of this  
9 section must be deposited in the Criminal Justice Revolving Account in the State Treasury.

10 (b) Any amount paid to or retained by the Department of State Police under subsection (1) of  
11 this section must be deposited in the State Police Account.

12 (3) The state may:

13 (a) With written authorization from the district attorney for the jurisdiction in which the prop-  
14 erty was seized, destroy any [*firearms or*] controlled substances.

15 (b) Sell the forfeited property by public or other commercially reasonable sale and pay from the  
16 proceeds the expenses of keeping and selling the property.

17 (c) Retain any vehicles[, *firearms*] or other equipment usable for law enforcement purposes, for  
18 official law enforcement use directly by the state.

19 (d) Lend or transfer any vehicles[, *firearms*] or other equipment usable for law enforcement  
20 purposes to any federal, state or local law enforcement agency or district attorney for official law  
21 enforcement use directly by the transferee entity.

22 (4) When the state has entered into an intergovernmental agreement with one or more political  
23 subdivisions under ORS 131.591, or when a law enforcement agency of this state has entered into  
24 an agreement with another law enforcement agency of this state, an equitable portion of the for-  
25 feited property distributed under subsection (1)(c)(D) of this section must be distributed to each  
26 agency participating in the seizure or criminal forfeiture as provided by the agreement.

27 (5) The property distributed under subsection (1)(c)(D) of this section, including any proceeds  
28 received by the state under an intergovernmental agreement or under an agreement between state  
29 law enforcement agencies, must be divided as follows:

30 (a) When no law enforcement agency other than the Department of Justice participated in the  
31 seizure or forfeiture, or when the Department of Justice has entered into an agreement under sub-  
32 section (4) of this section, the property must be deposited in the Criminal Justice Revolving Account.

33 (b) When no law enforcement agency other than the Department of State Police participated in  
34 the seizure or forfeiture, or when the Department of State Police has entered into an agreement  
35 under subsection (4) of this section, the property must be deposited in the State Police Account.

36 (6) The seizing agency may sell as much property as may be needed to make the distributions  
37 required by subsection (1) of this section. The seizing agency shall make distributions to the Asset  
38 Forfeiture Oversight Account and the Illegal Drug Cleanup Fund that are required by subsection (1)  
39 of this section once every three months. The distributions are due within 20 days of the end of each  
40 quarter. Interest does not accrue on amounts that are paid within the period specified by this sub-  
41 section.

42 **SECTION 3.** ORS 131A.350 is amended to read:

43 131A.350. Except as otherwise provided by intergovernmental agreement, [*and*] this chapter **and**  
44 **section 1 of this 2019 Act**, a forfeiting agency may:

45 (1) Sell, lease, lend or transfer forfeited property to any federal, state or local law enforcement

1 agency or district attorney.

2 (2) Sell forfeited property by public or other commercially reasonable sale and pay from the  
 3 proceeds the expenses of keeping and selling the property.

4 (3) Retain forfeited property.

5 (4) With written authorization from the district attorney for the county in which the property  
 6 was seized, destroy any forfeited *[firearms or]* controlled substances.

7 **SECTION 4.** ORS 166.279 is amended to read:

8 166.279. (1) Except as provided in subsection (4) of this section, ORS 131.550 to 131.600 do not  
 9 apply to the forfeiture of a firearm or other deadly weapon that was possessed, used or available for  
 10 use to facilitate a criminal offense.

11 (2) Except as provided in subsection (3) of this section, at the time of sentencing for any criminal  
 12 offense in which a firearm or other deadly weapon was possessed, used or available for use to fa-  
 13 facilitate the offense, the court shall declare the weapon to be contraband and order that the weapon  
 14 be forfeited.

15 (3) If a firearm or other deadly weapon that was possessed, used or available for use to facilitate  
 16 a criminal offense was stolen from its lawful owner and was recovered from a person other than the  
 17 lawful owner, the court may not order that the weapon be forfeited but shall order that the weapon  
 18 be restored to the lawful owner as soon as the weapon is no longer needed for evidentiary purposes.

19 (4) The court shall release a firearm or other deadly weapon forfeited under subsection (2) of  
 20 this section to the law enforcement agency that seized the weapon. The law enforcement agency  
 21 *[may destroy or sell the weapon, use the weapon as a service weapon or use the weapon for training,*  
 22 *identification or demonstration purposes. When a weapon is sold pursuant to this subsection, the law*  
 23 *enforcement agency shall pay the proceeds from the sale, less the costs of the sale, as provided in ORS*  
 24 *131.594 and 131.597]* **shall transfer the weapon to the Department of State Lands as provided**  
 25 **in section 1 of this 2019 Act.**

26 (5) As used in this section, “deadly weapon” has the meaning given that term in ORS 161.015.

27 **SECTION 5. Section 1 of this 2019 Act applies to firearms that an agency, board, com-**  
 28 **mission or other instrumentality of the state lawfully seizes on or after the effective date**  
 29 **of this 2019 Act.**

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