Senate Bill 342

Sponsored by Senator BAERTSCHIGER JR (Presession 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

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

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

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

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

SECTION 2. ORS 131.597 is amended to read:

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

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

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

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

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(A) Three percent to the Asset Forfeiture Oversight Account established in ORS 131A.460;
(B) Seven percent to the Illegal Drug Cleanup Fund established in ORS 475.495 for the purposes
specified in ORS 475.495 (5) and (6);
(C) Ten percent to the state General Fund;
(D) Subject to subsection (5) of this section, 40 percent to the Department of State Police or the
Department of Justice for official law enforcement use; and
(E) Forty percent to the Drug Prevention and Education Fund established in ORS 430.422.

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

(3) The state may:
(a) With written authorization from the district attorney for the jurisdiction in which the prop-
erty was seized, destroy any [firearms or] controlled substances.
(b) Sell the forfeited property by public or other commercially reasonable sale and pay from the
proceeds the expenses of keeping and selling the property.
(c) Retain any vehicles[, firearms] or other equipment usable for law enforcement purposes, for
official law enforcement use directly by the state.
(d) Lend or transfer any vehicles[, firearms] or other equipment usable for law enforcement
purposes to any federal, state or local law enforcement agency or district attorney for official law
enforcement use directly by the transferee entity.

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

(5) The property distributed under subsection (1)(c)(D) of this section, including any proceeds
received by the state under an intergovernmental agreement or under an agreement between state
law enforcement agencies, must be divided as follows:
(a) When no law enforcement agency other than the Department of Justice participated in the
seizure or forfeiture, or when the Department of Justice has entered into an agreement under sub-
section (4) of this section, the property must be deposited in the Criminal Justice Revolving Account.
(b) When no law enforcement agency other than the Department of State Police participated in
the seizure or forfeiture, or when the Department of State Police has entered into an agreement
under subsection (4) of this section, the property must be deposited in the State Police Account.

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

SECTION 3. ORS 131A.350 is amended to read:
ORS 131A.350. Except as otherwise provided by intergovernmental agreement, [and] this chapter and
section 1 of this 2019 Act, a forfeiting agency may:
(1) Sell, lease, lend or transfer forfeited property to any federal, state or local law enforcement
(2) Sell forfeited property by public or other commercially reasonable sale and pay from the proceeds the expenses of keeping and selling the property.

(3) Retain forfeited property.

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

SECTION 4. ORS 166.279 is amended to read:

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

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

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

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

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

SECTION 5. Section 1 of this 2019 Act applies to firearms that an agency, board, commission or other instrumentality of the state lawfully seizes on or after the effective date of this 2019 Act.