

SUBJECT: Disposition by law enforcement of certain seized weapons

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 7 ayes — Pickett, Fletcher, Dale, Flynn, Kleinschmidt, Lavender, Simmons
0 nays
2 absent — Cortez, Sheets

WITNESSES: For — (*Registered, but did not testify:* TJ Patterson, City of Forth Worth; Alice Tripp, Texas State Rifle Association)
Against — None
On — (*Registered, but did not testify:* J.D. Robertson, Texas Rangers)

BACKGROUND: Code of Criminal Procedure, art. 18.19 governs the disposition of weapons seized by law enforcement in connection with certain offenses. In all cases in which the weapon is not returned to or claimed by the person found in possession of the weapon, the weapon must be destroyed or forfeited to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory.

DIGEST: HB 1421 would allow a seized weapon not returned to or claimed by the person found in possession of the weapon to be sold at public sale by the law enforcement agency holding the weapon or by a licensed auctioneer. Only a licensed federal firearms dealer could purchase a weapon sold under this provision. The proceeds from the sale, after deductions for court costs and auction costs, would be transferred to the law enforcement agency holding the weapon.

The bill would take effect September 1, 2013.

SUPPORTERS SAY: HB 1421 would allow law enforcement agencies to benefit from the proceeds of the sale of guns. Between March and August of 2012, the Texas Department of Public Safety destroyed 1,673 firearms, many of

which could have been sold or auctioned instead. The practice of destroying seized firearms denies courts and law enforcement agencies thousands of dollars in potential income, which could be used to help purchase safety equipment and to cover the costs of investigating and trying the offenses in which the seized weapons were involved.

HB 1421 would correct a statewide problem and bring more law enforcement agencies into compliance with the law. There is widespread misunderstanding about the legality of selling seized weapons, and by legalizing and establishing rules for the practice, the bill would help agencies that are currently out of compliance to engage in this practice within the bounds of the law.

The bill would not increase the number of guns sold or circulated in Texas. The mechanics of the free market would decide how many of these firearms were sold and whether there would be demand for them. The bill merely would allow a new option for law enforcement to dispose of firearms and for firearms dealers to obtain them. It would not have an effect on the demand or market for these weapons.

The bill would not lead to the sale or commercialization of weapons used in notorious or heinous crimes. Courts still would have discretion in which disposition method to use, and still would have the option of destroying seized weapons. Guns that were used in a particularly heinous or notorious crime could be destroyed to prevent their inappropriate resale.

**OPPONENTS
SAY:**

HB 1421 would put more guns in circulation in Texas, which would threaten public safety and the safety of peace officers. Deadly weapons seized by law enforcement during the commission of a crime should be destroyed rather than resold. By allowing seized weapons to be sold, the bill would allow law enforcement to reintroduce a dangerous weapon back into the community against which it was used. Assault weapons, which could be sold or auctioned by law enforcement under this bill, are used against peace officers more often than they are used against regular citizens. Allowing these weapons to continue to circulate through the cycle of crime endangers communities and peace officers.

HB 1421 would allow weapons used in the commission of notorious or heinous crimes to be sold to the public. A weapon seized during a gruesome murder could be sold under this bill, and the licensed firearms dealer could then resell it to a person who might not have purchased it had

he or she known about the crime in which the weapon was involved. Alternately, the bill could unintentionally create a new market for sensationalized guns. Although judges would use discretion in destroying certain weapons, firearms dealers still could attempt to capitalize on the guns purchased from law enforcement and inspire demand for guns that had been used in crimes. These could be sold to people who lionize crime and violence and would enjoy the cachet of owning a gun that had been used in a notorious crime.