

HB

203

HOUSE COMMITTEE REPORT

(11)

Date referred: 5/5/87

FURTHER REFERRALS:

DATE: 5-12-87

The Finance Committee has considered HB 203

"An Act relating to forfeiture of weapons used to commit a crime."

RECOMMENDS:

- replace with CS HB 203 (FIN) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

SIGNING OTHER RECOMMENDATIONS:

Taylor Brown - No Rec

[Signature]
 Chairman's signature

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CS HB 203 (Fin)

Publish Date: _____

REQUEST
Revision Date: _____
Title: "An Act relating to forfeiture of weapons used to commit a crime."
Sponsor: Rep. Larson
Requestor: House Judiciary

Agency Affected: Public Safety
BRU: Alaska State Troopers

Components: Detachments & CIB

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL		0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Francis C. Allan *fca* Phone: 269-5691
Division: Alaska State Troopers Date: 3/26/87

Approved by Commissioner: William R. Nix *W. Nix* Date: 3/31/87
Agency: Public Safety

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

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LEGISLATIVE FINANCE page ____ of ____

JNR
3/31/87

200-211

Original sponsors: Larson, Swackhammer,
Koponen and Taylor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 203 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to forfeiture of weapons used to
7 commit a crime."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 12.36 is amended by adding new sections to read:

10 Sec. 12.36.050. REMISSION OF FORFEITED PROPERTY. (a) A claim-
11 ant seeking remission of, or remittance of the value of, the claim-
12 ant's interest in a weapon ordered forfeited under AS 12.55.015(a)(9)
13 shall prove to the court by a preponderance of evidence that the
14 claimant

15 (1) has a valid interest in the weapon, acquired in good
16 faith;

17 (2) did not knowingly participate in the commission of the
18 crime in which the weapon was used; and

19 (3) did not know or have reasonable cause to believe that
20 the weapon was used or would be used to commit a crime.

21 (b) Upon a showing that a claimant is entitled to relief under
22 (a) of this section, the court may order that the claimant receive an
23 amount equal to the value of the claimant's interest in the weapon or
24 the court may order that the weapon be released to the claimant.

25 (c) A claim may not be filed under this section more than 120
26 days after the entry of the last final judgment in the case in which
27 the weapon was ordered forfeited.

28 Sec. 12.36.060. DISPOSAL OF FORFEITED DEADLY WEAPONS. (a) A
29 deadly weapon forfeited under AS 12.55.015(a)(9), unless remitted

1 under AS 12.36.050, shall be disposed of by the commissioner of public
2 safety under this section. The commissioner of public safety may
3 declare a weapon surplus and transfer it to the commissioner of admin-
4 istration. A weapon suitable for law enforcement purposes, ballistics
5 testing, training, or identification may be retained by the Department
6 of Public Safety or transferred to the municipal law enforcement
7 agency making the arrest that led to the forfeiture. A weapon that is
8 unsafe or unlawful shall be destroyed.

9 (b) The commissioner of public safety may adopt regulations
10 necessary to carry out the provisions of this section.

11 * Sec. 2. AS 12.55.015(a) is amended to read:

12 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in
13 imposing sentence on a defendant convicted of an offense, may singly
14 or in combination

15 (1) impose a fine when authorized by law and as provided in
16 AS 12.55.035;

17 (2) order the defendant to be placed on probation under
18 conditions specified by the court that [WHICH] may include provision
19 for active supervision;

20 (3) impose a definite term of periodic imprisonment;

21 (4) impose a definite term of continuous imprisonment;

22 (5) order the defendant to make restitution under [AS
23 PROVIDED IN] AS 12.55.045;

24 (6) order the defendant to carry out a continuous or peri-
25 odic program of community work under [AS PROVIDED IN] AS 12.55.055;

26 (7) suspend execution of all or a portion of the sentence
27 imposed under [AS PROVIDED IN] AS 12.55.080;

28 (8) suspend imposition of sentence under [AS PROVIDED IN]
29 AS 12.55.085;

1 (9) order the forfeiture to the commissioner of public
2 safety of a deadly weapon that was in the actual possession of or used
3 by the defendant during the commission of an offense described in
4 AS 11.41, AS 11.56, or AS 11.61.

5 * Sec. 3. AS 12.55.015 is amended by adding a new subsection to read:

6 (f) In this section "deadly weapon" has the meaning given in
7 AS 11.81.900.

Alaska State Legislature



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Representative Ronald L. Larson
District 16B

DATE: May 8, 1987
TO: House Finance Committee
FROM: Representative Ron Larson
SUBJ: Analysis of Committee Substitute for House Bill
No. 203 (Judiciary)

General Analysis:

HB 203 would authorize the court to order the forfeiture to the state of a deadly weapon used or possessed by a defendant during the commission of a crime. Forfeiture would not be required by the bill, but could be imposed at the court's discretion.

Currently, forfeiture of weapons is authorized only for offenses involving fish and game or controlled substances laws. There is statutory silence regarding weapons used in all other crimes, including murder, robbery, or assault.

Section by Section Analysis:

Section 1 of the bill amends existing law at AS 12.36, Disposition of Recovered or Seized Property, by adding two new sections to the chapter.

Sec. 12.36.050(a) adds a procedure for the actual return of the weapon or the return in partial value of the claimant's interest in a weapon ordered forfeited under AS 12.55.015. The claimant of the weapon is required to prove three things: That he or she (1) has a valid interest in the weapon, acquired in good faith; (2) did not knowingly participate in the commission of the crime in which the weapon was used; and (3) did not know or have reasonable cause to believe that the weapon was used or would be used to commit a crime.

Sec. 12.36.050(b) directs the court to make the return in one of the two options specified if the claimant is entitled to relief.

Sec. 12.36.050(c) stipulates that claims for remission must be made within a year after the entry of the last final judgment in the case leading to the forfeiture.

Sec. 12.36.060 provides instructions for the Commissioner of Public Safety as to the disposition of weapons not returnable to a claimant.

Section 2 of the bill amends AS 12.55.015(a). Apart from some technical improvements in the law, the substantive change occurs by the addition of Sec. 12.55.015(a)(9), which would allow the court to "order the forfeiture to the commissioner of public safety of a deadly weapon that was in the actual possession of or used by the defendant during the commission of a crime described in AS 11.41, AS 11.56, or AS 11.61."

Section 3 of the bill adds a definition of "deadly weapon"; the definition used is that in criminal code at AS 11.81.900(13) (i.e., "any firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive").

The bill does not have an affirmative effective date. Accordingly, it takes effect 90 days after enactment.

BILL NO: CSHB 203 (JUD)

DATE: 5/08/87

TITLE: "An Act relating to
forfeiture of weapons
used to commit a crime."

CONTACT: Maj. Walter J. Gilmour
Alaska State Troopers

DEPARTMENT OF
PUBLIC SAFETY

This legislation adds a new paragraph to the general sentencing provisions' statute which would authorize a court to order the forfeiture, as part of the defendant's sentence upon conviction, of a deadly weapon which was possessed or used by a defendant during the commission of a crime.

This legislation would provide a means by which the department may dispose of the numerous deadly weapons seized or forfeited by the court each year after being used to commit a violent crime. Further, this bill would provide a means by which persons with a legal interest in a deadly weapon seized after being used to commit a violent crime can voice claim to the weapon prior to its forfeiture.

Amend Section 1 (c) to read: A claim may not be filed under this section more than six months after the entry of the last final judgement in the case in which the weapon was ordered forfeited.

The Department of Public Safety supports passage of this legislation.


Arthur English, Commissioner

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MAY 11 1987
ALASKA DEPARTMENT OF
PUBLIC SAFETY

1 IN THE HOUSE

BY LARSON, SWACKHAMMER,
KOPONEN AND TAYLOR

2

HOUSE BILL NO. 203

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

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A BILL

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15 faith;

16 (2) did not knowingly participate in the commission of the
17 crime in which the weapon was used; and

18 (3) did not know or have reasonable cause to believe that
19 the weapon was used or would be used to commit a crime.

20 (b) Upon a showing that a claimant is entitled to relief under
21 (a) of this section, the court shall order that the claimant receive

22 (1) the weapon within 60 days after the final disposition
23 of the case; or

24 (2) if the claimant is entitled to remittance of less than
25 the total value of the weapon, either the value of the claimant's
26 interest or, upon payment by the claimant of the difference in value,
27 the weapon.

28 Sec. 12.36.060. DISPOSAL OF FORFEITED DEADLY WEAPONS. (a) A
29 deadly weapon forfeited under AS 12.55.015, unless remitted under

1 AS 12.36.050, shall be disposed of by the commissioner of public
2 safety under this section. The commissioner of public safety may
3 dispose of each weapon suitable for sporting purposes by public
4 auction. A weapon suitable for law enforcement purposes, ballistics
5 testing, or training may be retained by the Department of Public
6 Safety. A weapon that is unsafe or unlawful shall be destroyed.

7 (b) The commissioner of public safety may adopt regulations
8 necessary to carry out the provisions of this section.

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