

HB0287S01 compared with HB0287

~~{deleted text}~~ shows text that was in HB0287 but was deleted in HB0287S01.

inserted text shows text that was not in HB0287 but was inserted into HB0287S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Keven J. Stratton proposes the following substitute bill:

RETURN OF WEAPONS RECOVERED BY LAW

ENFORCEMENT

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

Senate Sponsor: _____

LONG TITLE

General Description:

This bill ~~{requires a}~~ amends the procedures for the return or disposal of weapons recovered by law enforcement ~~{agency to return a firearm in its possession to the legal owner upon proof of ownership}~~.

Highlighted Provisions:

This bill:

- ▶ requires a law enforcement agency to return a firearm in its possession to the legal owner ~~{within a}~~ under certain ~~{time period upon proof of ownership}~~;
- ▶ ~~provides a process for a person who does not have the original proof of purchase to claim ownership of a firearm; and~~

HB0287S01 compared with HB0287

~~requires a law enforcement agency that returns a firearm to a legal owner to document the firearm disposition}~~requirements; and
provides for a sworn declaration as acceptable evidence of ownership of property.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-24-2, as last amended by Laws of Utah 2012, Chapters 47 and 284

REPEALS:

76-10-525, as enacted by Laws of Utah 1973, Chapter 196

Be it enacted by the Legislature of the state of Utah:

Section 1. Section ~~{76-10-525}~~77-24-2 is amended to read:

~~{76-10-525. Disposition of firearms.~~

~~[All police departments and/or sheriff's departments which have in their possession a weapon]~~

~~(1) A law enforcement agency as defined in Section 53-1-102 that has in its possession a firearm after it has been used for court [purposes] proceedings shall determine the [true] legal owner of the [weapon and return it to him; however, if unable to determine the true owner of the weapon, or if the true owner is the person committing the crime for which the weapon was used}~~77-24-2. Property not needed as evidence -- Child interview retention -- Return procedure -- Conflict resolution for secondhand merchandise.

(1) Property which is not needed as evidence shall be returned to the owner, if the owner may lawfully possess it, or disposed of in accordance with this chapter.

(2) (a) When the peace officer or the officer's employing agency becomes aware that the property is not needed as evidence, the {department shall confiscate it and it shall revert to that agency for their use and/or disposal as the head of the department determines.} firearm and return it to the owner within 30 days after the conclusion of court proceedings.

~~(2) A law enforcement agency in possession of a firearm that is not used for court~~

HB0287S01 compared with HB0287

~~proceedings as described in Subsection (1), shall be returned within 30 days to the legal owner upon submitting proof of ownership.~~

~~(3) A law enforcement agency may~~ officer or the agency shall inform the prosecuting attorney that the property is not needed and provide a description and details of ownership.

(b) When the prosecuting attorney is informed or otherwise becomes aware that the property is not needed as evidence, the prosecuting attorney shall authorize release of the property to the owner.

(c) When the peace officer or the officer's employing agency becomes aware that any property is to be returned to its owner, the officer or employing agency shall exercise due diligence in attempting to notify the rightful owner that the property is to be returned.

(d) If the property is a weapon, the peace officer [shall dispose of it in accordance with Section 76-10-525.] or the peace officer's employing agency shall retain or dispose of a {firearm} weapon pursuant to the agency's {firearm} weapon disposal policy, if:

(~~fa~~)i) ~~fit~~ the peace officer or the peace officer's employing agency is unable to determine the legal owner of the {firearm} weapon;

(~~fb~~)ii) the legal owner may not lawfully possess the {firearm} weapon; or

(~~fc~~)iii) the legal owner was convicted of a crime for which the {firearm} weapon was used as evidence.

~~{(4) A law enforcement agency}e) (i) Upon proof of ownership and of lawfulness of possession satisfactory to the evidence custodian, the custodian shall release the property to the owner.~~

(ii) The evidence custodian shall accept a sworn {affidavit of firearm ownership from the person asserting ownership if the original proof of purchase is lost.

~~(5) A law enforcement agency shall document the} declaration of ownership to establish ownership of the property.~~

[~~fi~~] (iii) If the evidence custodian is unable to locate an owner of the property or if the owner is not entitled to lawfully possess the property, the agency having custody of the property shall dispose of the property in accordance with Section 77-24-4.

(f) If the property was seized from a pawnshop or a secondhand business, the procedure in Section 13-32a-109.5 shall be followed to return the property to the pawnshop or secondhand business.

HB0287S01 compared with HB0287

(3) (a) When property is received in evidence, the clerk of the court last receiving it shall retain the property or the clerk shall return the property to the custody of the peace officer. The property shall be retained by the clerk or the officer until all direct appeals and retrials are final, at which time the property shall be returned to the owner in accordance with this chapter. If the property was seized for forfeiture, it shall be held and disposed of as provided in Title 24, Chapter 1, Utah Uniform Forfeiture Procedures Act.

(b) If the prosecuting attorney considers it necessary to retain control over the evidence, in anticipation of possible collateral attacks upon the judgment or for use in a potential prosecution, the prosecuting attorney may decline to authorize return of the property to the owner.

(4) If a peace officer or the officer's employing agency records an interview of a minor child during an investigation of a violation of Section 76-5-402.1, 76-5-402.3, 76-5-403.1, or 76-5-404.1, the peace officer's employing agency shall retain a copy of the recording for 18 years following the date of the last recording unless the prosecuting attorney requests in writing that the recording be retained for an additional period of time.

(5) If a conflict exists between the provisions of this section and Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act, Title 13, Chapter 32a governs regarding disposition of ~~any firearm.~~

Legislative Review Note

~~as of 1-25-13 5:25 PM~~

~~Office of Legislative Research and General Counsel~~ property held by a pawn or secondhand business in the course of its business.

Section 2. Repealer.

This bill repeals:

Section 76-10-525, Disposition of weapons after use for court purposes.