

SENATE BILL No. 229

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-47.

Synopsis: Firearm buyback programs. Specifies that a law enforcement agency having possession of a firearm may not destroy the firearm unless the serial number of the firearm has been obliterated. Prohibits a local unit of government, including a law enforcement agency, from conducting a firearm buyback program. Establishes a procedure to permit certain individuals whose firearms have been retained by a law enforcement agency to have the firearms sold at auction and the proceeds, less the costs of sale, returned to the individual.

Effective: July 1, 2014.

Tomes

January 9, 2014, read first time and referred to Committee on Judiciary.



Introduced

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 229

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-47-3-2, AS AMENDED BY P.L.119-2012,
2 SECTION 167, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) This section applies only to
4 firearms which are not required to be registered in the National
5 Firearms Registration and Transfer Record.

6 (b) Firearms shall be returned to the rightful owner at once
7 following final disposition of the cause if a return has not already
8 occurred under the terms of IC 35-33-5. If the rightful ownership is not
9 known the law enforcement agency holding the firearm shall make a
10 reasonable attempt to ascertain the rightful ownership and cause the
11 return of the firearm. However, nothing in this chapter shall be
12 construed as requiring the return of firearms to rightful owners who
13 have been convicted for the misuse of firearms. In such cases, the court
14 may provide for the return of the firearm in question or order that the
15 firearm be at once delivered:

16 (1) except as provided in subdivision (2), to the sheriff's



1 department of the county in which the offense occurred; or

2 (2) to the city or town police force that confiscated the firearm. ~~if:~~

3 ~~(A) a member of the city or town police force confiscated the~~
4 ~~firearm; and~~

5 ~~(B) the city or town has a population of more than two~~
6 ~~thousand five hundred (2,500) and less than six hundred~~
7 ~~thousand (600,000).~~

8 (c) The receiving law enforcement agency shall dispose of firearms
9 under subsection (b), at the discretion of the law enforcement agency,
10 not more than one hundred twenty (120) days following receipt by use
11 of any of the following procedures:

12 (1) Public sale of the firearms to the general public as follows:

13 (A) Notice of the sale shall be:

14 (i) posted for ten (10) days in the county courthouse in a
15 place readily accessible to the general public; and

16 (ii) advertised in the principal newspaper of the county for
17 two (2) days in an advertisement that appears in the
18 newspaper at least five (5) days prior to the sale.

19 (B) Disposition of the firearm shall be by public auction in a
20 place convenient to the general public, with disposition going
21 to the highest bidder. However, no firearm shall be transferred
22 to any bidder if that bidder is not lawfully eligible to receive
23 and possess firearms according to the laws of the United States
24 and Indiana.

25 (C) All handguns transferred under this subdivision shall also
26 be transferred according to the transfer procedures set forth in
27 this article.

28 (D) Money collected pursuant to the sales shall first be used to
29 defray the necessary costs of administering this subdivision
30 with any surplus to be:

31 (i) deposited into the receiving law enforcement agency's
32 firearms training fund, ~~if the law enforcement agency is a~~
33 ~~county law enforcement agency; or into a continuing~~
34 ~~education fund established under IC 5-2-8-2; if the law~~
35 ~~enforcement agency is a city or town law enforcement~~
36 ~~agency other appropriate training activities fund, or any~~
37 ~~other fund that may be used by the receiving law~~
38 ~~enforcement agency for the purchase and maintenance~~
39 ~~of firearms, ammunition, vests, and other law~~
40 ~~enforcement equipment; and~~

41 (ii) used by the agency exclusively ~~for the purpose of~~
42 ~~training to train~~ law enforcement officers in the proper use



1 of firearms or other law enforcement duties, **and to**
 2 **purchase and maintain firearms, ammunition, vests, and**
 3 **other law enforcement equipment.** if the law enforcement
 4 agency is a county law enforcement agency, or for law
 5 enforcement purposes; if the law enforcement agency is a
 6 city or town law enforcement agency.

7 **A law enforcement agency may not sell a firearm to the**
 8 **general public if the firearm is unsafe to operate because it**
 9 **has been damaged or altered.**

10 (2) Sale of the firearms to a licensed firearms dealer as follows:

11 (A) Notice of the sale must be:

- 12 (i) posted for ten (10) days in the county courthouse in a
 13 place readily accessible to the general public; and
 14 (ii) advertised in the principal newspaper of the county for
 15 two (2) days in an advertisement that appears in the
 16 newspaper at least five (5) days before the sale.

17 (B) Disposition of the firearm shall be by auction with
 18 disposition going to the highest bidder who is a licensed
 19 firearms dealer.

20 (C) Money collected from the sales shall first be used to defray
 21 the necessary costs of administering this subdivision and any
 22 surplus shall be:

23 (i) deposited into the receiving law enforcement agency's
 24 firearms training fund, ~~or~~ other appropriate training
 25 activities fund, **or any other fund that may be used by the**
 26 **receiving law enforcement agency for the purchase and**
 27 **maintenance of firearms, ammunition, vests, and other**
 28 **law enforcement equipment;** and

29 (ii) used by the agency exclusively ~~for the purpose of~~
 30 **training to train** law enforcement officers in the proper use
 31 of firearms or other law enforcement duties, **and to**
 32 **purchase and maintain firearms, ammunition, vests, and**
 33 **other law enforcement equipment.**

34 **A law enforcement agency may sell a firearm to a licensed**
 35 **firearms dealer for salvage or repair, even if the firearm is**
 36 **unsafe to operate because it has been damaged or altered.**

37 (3) Sale or transfer of the firearms to another law enforcement
 38 agency.

39 (4) Release to the state police department laboratory or other
 40 forensic laboratory administered by the state or a political
 41 subdivision (as defined in IC 36-1-2-13) for the purposes of
 42 research, training, and comparison in conjunction with the



1 forensic examination of firearms evidence.

2 (5) Destruction of the ~~firearms~~. **firearm if the serial number on**
 3 **the firearm has been obliterated.**

4 (d) Notwithstanding the requirement of this section mandating
 5 disposal of firearms not more than one hundred twenty (120) days
 6 following receipt, the receiving law enforcement agency may at its
 7 discretion hold firearms it may receive until a sufficient number has
 8 accumulated to defray the costs of administering this section if a delay
 9 does not exceed one hundred eighty (180) days from the date of receipt
 10 of the first firearm in the sale lot. **In addition, the receiving law**
 11 **enforcement agency may, at its discretion, jointly sell firearms it**
 12 **has received with another law enforcement agency, or permit**
 13 **another law enforcement agency to sell firearms it has received on**
 14 **behalf of the receiving law enforcement agency.** In any event, all
 15 confiscated firearms shall be disposed of as promptly as possible.

16 (e) When a firearm is delivered to the state police department
 17 laboratory or other forensic laboratory under subsection (c)(4) and the
 18 state police department laboratory or other forensic laboratory
 19 determines the laboratory has no further need for the firearm in
 20 question, the laboratory shall return the firearm to the law enforcement
 21 agency for disposal under subsection (c).

22 SECTION 2. IC 35-47-3.5 IS ADDED TO THE INDIANA CODE
 23 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2014]:

25 **Chapter 3.5. Firearm Buyback Programs Prohibited**

26 **Sec. 1. This chapter applies to a unit (as defined in**
 27 **IC 36-1-2-23), including a law enforcement agency of a unit.**

28 **Sec. 2. As used in this chapter, "firearm buyback program"**
 29 **means a program to purchase privately owned firearms from**
 30 **individual firearm owners for the purpose of:**

- 31 (1) reducing the number of firearms owned by civilians; or
 32 (2) permitting civilians to sell a firearm to the government
 33 without fear of prosecution.

34 **The term does not include the purchase of firearms from a licensed**
 35 **firearms dealer or a program to purchase firearms for law**
 36 **enforcement purposes.**

37 **Sec. 3. A unit, including a law enforcement agency of a unit, may**
 38 **not conduct a firearm buyback program.**

39 **Sec. 4. (a) A unit having possession of a firearm obtained from**
 40 **a firearm buyback program shall transfer the firearm to a law**
 41 **enforcement agency of the unit.**

42 **(b) A law enforcement agency of a unit that has possession of a**



1 **firearm obtained under subsection (a), or otherwise as the result of**
 2 **a firearm buyback program, shall dispose of the firearm in**
 3 **accordance with IC 35-47-3.**

4 SECTION 3. IC 35-47-14-9, AS ADDED BY P.L.1-2006,
 5 SECTION 537, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2014]: Sec. 9. If at least five (5) years have
 7 passed since a court conducted the first hearing to retain a firearm
 8 under this chapter, the court, after giving notice to the parties and
 9 conducting a hearing, may order the law enforcement agency having
 10 custody of the firearm to ~~destroy or otherwise permanently~~ dispose of
 11 the firearm **in accordance with IC 35-47-3.**

12 SECTION 4. IC 35-47-14-10 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2014]: **Sec. 10. (a) If a court has ordered a**
 15 **law enforcement agency to retain an individual's firearm under**
 16 **section 6 of this chapter, the individual may request the court to**
 17 **order the law enforcement agency to sell the firearm at auction**
 18 **under IC 35-47-3-2 and return the proceeds to the individual.**

19 **(b) An individual may make the request described in subsection**
 20 **(a):**

21 **(1) at the retention hearing described in section 9 of this**
 22 **chapter; or**

23 **(2) at any time before the retention hearing described in**
 24 **section 9 of this chapter is held.**

25 **(c) If an individual timely requests a sale of a firearm under**
 26 **subsection (a), the court shall order the law enforcement agency**
 27 **having custody of the firearm to sell the firearm at auction under**
 28 **IC 35-47-3-2, unless the serial number of the firearm has been**
 29 **obliterated.**

30 **(d) If the court issues an order under subsection (c), the court's**
 31 **order must require:**

32 **(1) that the firearm be sold not more than one (1) year after**
 33 **receipt of the order; and**

34 **(2) that the proceeds of the sale be returned to the individual**
 35 **who owns the firearm. However, the law enforcement agency**
 36 **may retain not more than eight percent (8%) of the sale price**
 37 **to pay the costs of the sale, including administrative costs and**
 38 **the auctioneer's fee.**

39 **(e) A law enforcement agency may destroy a firearm if the serial**
 40 **number of the firearm has been obliterated. If a firearm is unsafe**
 41 **to operate because it has been damaged or altered, a law**
 42 **enforcement agency may only sell the firearm to a licensed**



1 **firearms dealer for salvage or repair under IC 35-47-3-2(c)(2).**

