

House File 536 - Introduced

HOUSE FILE 536
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 75)

A BILL FOR

1 An Act relating to the disposition of legal firearms and
2 ammunition seized by a law enforcement agency.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 809.5, subsection 1, paragraph f,
2 subparagraph (3), Code 2013, is amended to read as follows:

3 (3) (i) Notwithstanding subparagraph (2) and except as
4 otherwise provided in this subparagraph, firearms or ammunition
5 with an aggregate fair market value equal to or less than five
6 hundred dollars shall be deposited with the department of
7 public safety.

8 (ii) The seizing agency shall notify the department of
9 public safety if the seizing agency desires to resume and
10 retain custody of any firearms. If the department is already
11 in possession of the same type of firearms, the department
12 shall return the firearms to the seizing agency within one
13 hundred eighty days of receiving the firearms from the seizing
14 agency. Before returning the firearms, the department shall,
15 as necessary, collect and record information from the firearms,
16 which may include but is not limited to serial numbers.

17 (iii) The firearms or ammunition may be held by the
18 department of public safety and may be used for law
19 enforcement, testing, or comparisons by the criminalistics
20 laboratory of the department, or may be destroyed, or disposed
21 of by the department of public safety seizing agency using
22 the same rules and procedures established in accordance with
23 section 809.21, subsection 2.

24 Sec. 2. Section 809.21, Code 2013, is amended to read as
25 follows:

26 **809.21 Sale of certain ammunition and firearms.**

27 1. Ammunition and firearms seized by the department of
28 public safety which are not illegal and which are not offensive
29 weapons as defined by section 724.1 may be sold by the
30 department of public safety at public auction. The firearms or
31 ammunition may also be held by the department of public safety
32 and used for law enforcement, testing, or comparisons by the
33 criminalistics laboratory, or destroyed, or disposed of in
34 accordance with this section. The department of public safety
35 may sell at public auction forfeited legal weapons received

1 from the director of the department of natural resources,
2 except that rifles and shotguns shall be retained by the
3 department of natural resources for disposal according to its
4 rules.

5 2. The sale of ammunition or firearms which are not illegal
6 and which are not offensive weapons as defined by section
7 724.1, pursuant to this section shall be made only to federally
8 licensed firearms dealers or to persons who have a permit
9 to purchase the firearms. Persons who have not obtained a
10 permit may bid on firearms at the public auction. However,
11 persons who bid without a permit must post a ~~fifty percent of~~
12 ~~purchase price~~ fifty-percent-of-purchase-price deposit with the
13 commissioner of public safety on any winning bid. No transfer
14 of firearms may be made to a person bidding without a permit
15 until such time as the person has obtained a permit. If the
16 person is unable to produce a permit within two weeks from the
17 date of the auction, the person shall forfeit the ~~fifty percent~~
18 fifty-percent deposit to the department of public safety. All
19 proceeds of a public auction ~~pursuant to this section~~ conducted
20 by the department, less department expenses reasonably
21 incurred, shall be deposited in the general fund of the state.
22 The department of public safety shall be reimbursed from the
23 proceeds for the reasonable expenses incurred in selling the
24 property at the auction.

25 Sec. 3. Section 809A.17, subsection 5, paragraph b, Code
26 2013, is amended to read as follows:

27 b. Forfeited property which is a weapon or ammunition
28 shall be deposited with the ~~department of public safety to be~~
29 ~~disposed of in accordance with the rules of the department~~
30 seizing agency. All weapons or ammunition may be held
31 for use in law enforcement, testing, or comparison by the
32 criminalistics laboratory, or destroyed. Ammunition and
33 firearms which are not illegal and are not offensive weapons
34 as defined by section 724.1 may be sold by the ~~department as~~
35 provided seizing agency using the same rules and procedures in

1 section 809.21, subsection 2.

2 EXPLANATION

3 This bill relates to the disposition of legal firearms and
4 ammunition seized by a law enforcement agency.

5 Current law requires that all abandoned, seized firearms
6 and ammunition with an aggregate value of less \$500 be
7 transferred to the department of public safety for use in law
8 enforcement, testing, or for comparisons by the criminalistics
9 laboratory, or destroyed, or sold at public auction pursuant
10 to Code section 809.21. If the value of a seized firearm or
11 ammunition is greater than \$500 in the aggregate, Code section
12 809.5(1)(f)(1) requires the property to be forfeited pursuant
13 to the procedures established in Code chapter 809A.

14 Under the bill, if the owner of firearms or ammunition is
15 unable to be located or the firearms or ammunition is deemed
16 abandoned, such firearms or ammunition shall be deposited with
17 the department of public safety, regardless of value, and if
18 the seizing agency desires to resume and retain custody of
19 any firearms, the seizing agency must notify the department
20 of public safety. If the department is already in possession
21 of the same type of firearms, the department is required to
22 return the firearms to the seizing agency within six months
23 of receiving the firearms from the seizing agency. Before
24 returning the firearms, the department shall, as necessary,
25 collect and record information from the firearms, which may
26 include but is not limited to serial numbers. The firearms or
27 ammunition may be held by the department of public safety and
28 may be used for law enforcement, testing, or comparisons by the
29 criminalistics laboratory of the department, or destroyed or
30 disposed of by the seizing agency.

31 Current law requires all forfeited weapons and ammunition
32 with an aggregate value of more than \$500 to be transferred to
33 the department of public safety for use in law enforcement,
34 testing, or used for comparisons by the criminalistics
35 laboratory, to be destroyed, or to be disposed of pursuant to

1 the procedures established in Code section 809A.17(5)(b).

2 The bill requires forfeited firearms or ammunition to be
3 transferred to the seizing agency. The bill further provides
4 that the seizing agency may use a forfeited firearm or
5 ammunition for law enforcement, testing, or loan or transfer
6 to the department of public safety for comparisons by the
7 criminalistics laboratory, or that the firearm or ammunition
8 be destroyed, or disposed of pursuant to the procedures
9 established for the department of public safety in newly
10 designated Code section 809.21(2).

11 The bill does not restrict the use of the proceeds from
12 the sale of seized firearms or ammunition by a local law
13 enforcement agency. Current law and the bill provide that
14 the proceeds from the sale of firearms or ammunition by the
15 department of public safety in Code section 809.21, less
16 expenses, be deposited into the general fund of the state.