

CHAPTER 222

[House Bill No. 1043]

STATE PATROL—DISPOSITION OF UNCLAIMED PROPERTY

AN ACT Relating to unclaimed property in hands of the Washington state patrol; amending RCW 9.41.098; and adding a new chapter to Title 63 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means the Washington state patrol.

(2) "Chief" means the chief of the Washington state patrol or designee.

(3) "Personal property" or "property" includes both corporeal and incorporeal personal property and includes, among other property, contraband and money.

(4) "Contraband" means any property which is unlawful to produce or possess.

(5) "Money" means all currency, script, personal checks, money orders, or other negotiable instruments.

(6) "Owner" means the person in whom is vested the ownership, dominion, or title of the property.

(7) "Unclaimed" means that no owner of the property has been identified or has requested, in writing, the release of the property to themselves nor has the owner of the property designated an individual to receive the property or paid the required postage to effect delivery of the property.

(8) "Illegal items" means those items unlawful to be possessed.

NEW SECTION. Sec. 2. Whenever any personal property shall come into the possession of the officers of the state patrol in connection with the official performance of their duties and said personal property shall remain unclaimed or not taken away for a period of sixty days from the date of written notice to the owner thereof, if known, which notice shall inform the owner of the disposition which may be made of the property under this section and the time that the owner has to claim the property and in all other cases for a period of sixty days from the time said property came into the possession of the state agency, unless said property has been held as evidence in any court, then, in that event, after sixty days from date when said case has been finally disposed of and said property released as evidence by order of the court, said agency may:

(1) At any time thereafter sell said personal property at public auction to the highest and best bidder for cash in the manner hereinafter provided;

(2) Retain the property for the use of the state patrol subject to giving notice in the manner prescribed in section 3 of this act and the right of the owner, or the owner's legal representative, to reclaim the property within

one year after receipt of notice, without compensation for ordinary wear and tear if, in the opinion of the chief, the property consists of firearms or other items specifically usable in law enforcement work: PROVIDED, That at the end of each calendar year during which there has been such a retention, the state patrol shall provide the office of financial management and retain for public inspection a list of such retained items and an estimation of each item's replacement value;

(3) Destroy an item of personal property at the discretion of the chief if the chief determines that the following circumstances have occurred:

(a) The property has no substantial commercial value, or the probable cost of sale exceeds the value of the property;

(b) The item has been unclaimed by any person after notice procedures have been met, as prescribed in this section; and

(c) The chief has determined that the item is illegal to possess or sell or unsafe and unable to be made safe for use by any member of the general public;

(4) If the item is not unsafe or illegal to possess or sell, such item, after satisfying the notice requirements as prescribed in this section may be offered by the chief to bona fide dealers, in trade for law enforcement equipment, which equipment shall be treated as retained property for purpose of annual listing requirements of subsection (2) of this section; or

(5) At the end of one year, any unclaimed firearm shall be disposed of pursuant to RCW 9.41.098(2). Any other item which is not unsafe or illegal to possess or sell, but has been, or may be used, in the judgment of the chief, in a manner that is illegal, may be destroyed.

NEW SECTION. Sec. 3. Before said personal property shall be sold, a notice of such sale fixing the time and place thereof which shall be at a suitable place, which will be noted in the advertisement for sale, and containing a description of the property to be sold shall be published at least once in a newspaper of general circulation in the county in which the property is to be sold at least ten days prior to the date fixed for the auction. The notice shall be signed by the chief. If the owner fails to reclaim said property prior to the time fixed for the sale in such notice, the chief shall conduct said sale and sell the property described in the notice at public auction to the highest and best bidder for cash, and upon payment of the amount of such bid shall deliver the said property to such bidder.

NEW SECTION. Sec. 4. The moneys arising from sales under the provisions of this chapter shall be first applied to the payment of the costs and expenses of the sale and then to the payment of lawful charges and expenses for the keep of said personal property and the balance, if any, shall be forwarded to the state treasurer to be deposited into the state patrol highway account.

NEW SECTION. Sec. 5. If the owner of said personal property so sold, or the owner's legal representative, shall, at any time within three years after such money shall have been deposited in the state patrol highway account, furnish satisfactory evidence to the state treasurer of the ownership of said personal property, the owner or the owner's legal representative shall be entitled to receive from said state patrol highway account the amount so deposited therein with interest.

NEW SECTION. Sec. 6. (1) Chapter 63.24 RCW, unclaimed property in hands of bailee, does not apply to personal property in the possession of the state patrol.

(2) The uniform unclaimed property act, chapter 63.29 RCW, does not apply to personal property in the possession of the state patrol.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act shall constitute a new chapter in Title 63 RCW.

Sec. 8. Section 2, chapter 223, Laws of 1988 and RCW 9.41.098 are each amended to read as follows:

(1) The superior courts and the courts of limited jurisdiction of the state may order forfeiture of a firearm which is proven to be:

(a) Found concealed on a person not authorized by RCW 9.41.060 or 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute defense to forfeiture if the person possessed a valid Washington concealed pistol license within the preceding two years and has not become ineligible for a concealed pistol license in the interim. Before the firearm may be returned, the person must pay the past due renewal fee and the current renewal fee;

(b) Commercially sold to any person without an application as required by RCW 9.41.090;

(c) Found in the possession or under the control of a person at the time the person committed or was arrested for committing a crime of violence or a crime in which a firearm was used or displayed or a felony violation of the uniform controlled substances act, chapter 69.50 RCW;

(d) Found concealed on a person who is in any place in which a concealed pistol license is required, and who is under the influence of any drug or under the influence of intoxicating liquor, having 0.10 grams or more of alcohol per two hundred ten liters of breath or 0.10 percent or more by weight of alcohol in the person's blood, as shown by analysis of the person's breath, blood, or other bodily substance;

(e) Found in the possession of a person prohibited from possessing the firearm under RCW 9.41.040;

(f) Found in the possession of a person free on bail or personal recognizance pending trial, appeal, or sentencing for a crime of violence or a crime in which a firearm was used or displayed, except that violations of Title 77 RCW shall not result in forfeiture under this section;

(g) Found in the possession of a person found to have been mentally incompetent while in possession of a firearm when apprehended or who is thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

(h) Known to have been used or displayed by a person in the violation of a proper written order of a court of general jurisdiction; or

(i) Known to have been used in the commission of a crime of violence or a crime in which a firearm was used or displayed or a felony violation of the uniformed controlled substances act, chapter 69.50 RCW.

(2) Upon order of forfeiture, the court in its discretion shall order destruction of any firearm that is illegal for any person to possess. All firearms legal for citizen possession that are judicially forfeited or forfeited due to failure to make a claim under RCW 63.32.010 ((or)), 63.40.010, or 63.——(section 2 of this 1989 act) shall be submitted for auction to commercial sellers once a year if the submitting agency has accumulated at least ten firearms authorized for sale. Law enforcement agencies may conduct joint auctions for the purpose of maximizing efficiency. A maximum of ten percent of such firearms may be retained for use by local law enforcement agencies and the Washington state patrol. Before submission for auction, a court may temporarily retain forfeited firearms if needed for evidence. The proceeds from any sale shall be divided as follows: The local jurisdiction and the Washington state patrol shall retain its costs, including actual costs of storage and sale, and shall forward the remainder to the state department of wildlife for use in its firearms training program pursuant to RCW 77.32.155.

If a firearm is delivered to a law enforcement agency and the agency no longer requires use of the firearm, the agency shall dispose of the firearm by auction as provided by this subsection. The public auctioning agency shall, as a minimum, maintain a record of all forfeited firearms by manufacturer, model, caliber, serial number, date and circumstances of forfeiture, and final disposition. The records shall be open to public inspection and copying.

(3) The court shall order the firearm returned to the owner upon a showing that there is no probable cause to believe a violation of subsection (1) of this section existed or the firearm was stolen from the owner or the owner neither had knowledge of nor consented to the act or omission involving the firearm which resulted in its forfeiture.

(4) A law enforcement officer of the state or of any county or municipality may confiscate a firearm found to be in the possession of a person under circumstances specified in subsection (1) of this section. After confiscation, the firearm shall not be surrendered except: (a) To the prosecuting attorney for use in subsequent legal proceedings; (b) for disposition according to an order of a court having jurisdiction as provided in subsection (1) of this section; or (c) to the owner if the proceedings are dismissed or as directed in subsection (3) of this section.

NEW SECTION. Sec. 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 18, 1989.

Passed the Senate April 5, 1989.

Approved by the Governor May 3, 1989.

Filed in Office of Secretary of State May 3, 1989.

CHAPTER 223

[Substitute House Bill No. 1388]

TRANSIT WORKERS—COVERAGE UNDER GOOD SAMARITAN ACT

AN ACT Relating to persons rendering emergency care or transport; and amending RCW 4.24.310.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 58, Laws of 1975 as last amended by section 501, chapter 212, Laws of 1987 and RCW 4.24.310 are each amended to read as follows:

For the purposes of RCW 4.24.300 the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

(1) "Compensation" has its ordinary meaning but does not include: Nominal payments, reimbursement for expenses, or pension benefits~~(, nor does it include)~~; payments made to volunteer part-time and volunteer on-call personnel of fire departments, fire districts, ambulance districts, police departments, or any emergency response organizations; or any payment to a person employed as a transit operator who is paid for his or her regular work, which work does not routinely include providing emergency care or emergency transportation.

(2) "Emergency care" means care, first aid, treatment, or assistance rendered to the injured person in need of immediate medical attention and includes providing or arranging for further medical treatment or care for the injured person. Except with respect to the injured person or persons being transported for further medical treatment or care, the immunity granted by RCW 4.24.300 does not apply to the negligent operation of any motor vehicle.