

NEW SUBSECTION. If a person violates a permit condition or violates a provision of this chapter, or a rule, or order issued under this chapter, the attorney general shall, at the request of the department, institute a civil action in the district court for injunctive relief or for the assessment of a civil penalty as determined by the court. If any violations result in the issuance of a cessation order under section 83.14, the department shall request the attorney general to institute a civil action in the district court for the assessment of a civil penalty. Injunctive relief to prevent or abate any violation of this chapter, permit condition, rule, or order issued under this chapter shall be available upon proof of the violation. A final order of the department is judicially enforceable and is not subject to collateral attack in any judicial proceeding if opportunity for hearing and judicial review were available to the person.

An appeal bond shall be required for any appeal of a judgment assessing a civil penalty.

Sec. 2. Section 83.15, subsections 1 and 4, Code 1983, are amended by striking the subsections.

Approved April 30, 1984

CHAPTER 1154

DISPOSITION OF PROPERTY POSSESSED BY DEPARTMENT OF PUBLIC SAFETY

H.F. 573

AN ACT providing for the disposition of personal property in the possession of the department of public safety.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Chapter 80, Code 1983, is amended by adding the following new section:

NEW SECTION. DISPOSITION OF PERSONAL PROPERTY.

1. Personal property, except for property subject to forfeiture, motor vehicles subject to sale pursuant to section 321.89, weapons subject to disposition pursuant to section 691.9, and seized property subject to disposition pursuant to chapter 809, which personal property is found or seized by, turned in to, or otherwise lawfully comes into the possession of the department of public safety and which the department does not own, shall be disposed of pursuant to this section. If by examining the property the owner or lawful custodian of the property is known or can be readily ascertained, the department shall notify the owner or custodian by certified mail directed to the owner's or custodian's last known address, as to the location of the property. If the identity or address of the owner cannot be determined, notice by one publication in a newspaper of general circulation in the area where the property was found is sufficient notice. Publication notice may contain multiple items.

2. The department may return the property to a person if that person or the person's representative does all of the following:

a. Appears at the location where the property is located.

b. Provides proper identification.
c. Demonstrates ownership or lawful possession of the property to the satisfaction of the department.

3. After ninety days following the mailing or publication of the notice required by this section, or if the owner or lawful custodian of the property is unknown or cannot be readily determined, or the department has not turned the property over to the owner, the lawful custodian, or the owner's or custodian's representative, the department may dispose of the property in any lawful way, including but not limited to the following:

a. Selling the property at public auction with the proceeds, less department expenses, going to the general fund of the state, however, the department shall be reimbursed from the proceeds for the reasonable expenses incurred in selling the property at the auction.

b. Retaining the property for the department's own use.

c. Giving the property to another agency of government.

d. Giving the property to an appropriate charitable organization.

e. Destroying the property.

4. Except when a person appears in person or through a representative within the time periods set by this section, and satisfies the department that the person is the owner or lawful custodian of the property, disposition of the property shall be at the discretion of the department. The department shall maintain the receipt and disposition records for all property processed under this section. Good faith compliance with this section is a defense to any claim or action at law or in equity regarding the disposition of the property.

Sec. 2. Section 691.9, Code 1983, is amended to read as follows:

691.9 DEPOSIT OF AMMUNITION AND FIREARMS.

1. Ammunition and firearms which are stolen or embezzled or confiscated pursuant to a valid arrest or search warrant and for which lawful possession is not established or for which lawful title cannot be ascertained pursuant to chapter 809 shall be forwarded to the state criminalistics laboratory for deposit by the law enforcement agency having possession of such items. Ammunition and firearms which were used in the perpetration or attempted perpetration of a criminal offense and are owned by the perpetrator of such offense shall be forfeited to the state, and shall be deposited with the state criminalistics laboratory if no longer required in a criminal action for evidentiary purposes. Ammunition and firearms forfeited shall become the property of the state and shall be disposed of as provided for in subsection 3.

2. Ammunition After being retained for at least one year, ammunition and firearms other than those forfeited to the state, which come into the possession of the state criminalistics laboratory may, at the discretion of the commissioner of public safety, after being retained for at least one year, be destroyed, retained or exchanged with other public agencies. Ammunition and firearms forfeited to the state may be destroyed, retained, given to or exchanged with other public agencies, within or without the state.

3. Ammunition and firearms subject to this section shall be disposed of as provided in subsection 3, and shall not be subject to the provisions of chapter 556, or any other provisions of law relating to abandoned property.

3. Ammunitions and firearms acquired pursuant to subsection 1 or 2 shall be disposed of, as follows:

a. Ammunition and firearms which are suitable for use in law enforcement may be given to or exchanged with any public agency.

b. Ammunition and firearms which are not illegal or which are not offensive weapons as defined by section 724.1 may be sold at public auction. The sale of ammunition or firearms pursuant to this paragraph shall be made only to federally-licensed firearms dealers or to persons who have a permit to purchase the firearms. Persons who have not obtained a permit may bid on firearms at the public auction. However, persons who bid without a permit must

post a fifty percent of purchase price deposit with the commissioner on any winning bid. No transfer of firearms may be made to a person bidding without a permit until such time as the person has obtained a permit. If the person is unable to produce a permit within two weeks from the date of the auction, the person shall forfeit the fifty percent deposit to the department. All proceeds of a public auction pursuant to this paragraph, less department expenses reasonably incurred, shall be deposited in the general fund of the state. The department shall be reimbursed from the proceeds for the reasonable expenses incurred in selling the property at the auction.

c. Firearms and ammunition which are not given to or exchanged with a public agency, or sold, or retained by the department of public safety for law enforcement use, shall be destroyed by the department of public safety.

4. If any person claims to be entitled to any property which may have been disposed of under this section, he the person may file a claim for the value of such the property as provided in chapter 25A.

5. Notwithstanding chapter 25A, the state of Iowa, and employees of the state shall not be held liable for a claim arising from the retention, gift, or sale of ammunition or firearms done pursuant to this section.

Approved April 30, 1984

CHAPTER 1155

CARRYBACK OF LOSSES CLAIMS

H.F. 2331

AN ACT relating to the filing of refund claims resulting from the carryback of net operating losses or net capital losses for tax years ending on or before December 31, 1978 for personal and corporate and franchise tax purposes.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 422.73, Code Supplement 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A credit, action or claim for refund arising or existing from a carryback of a net operating loss or net capital loss from tax years ending on or before December 31, 1978 is not allowed, unless the action or claim was received by the department prior to July 1, 1984. This subsection prevails over any other statutes authorizing income tax refunds or claims.

Approved April 30, 1984