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APR 10 1991

SENATE FILE  
BY KERSTEN

*415*

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the disposition of seized and forfeited  
2 property, and establishing a revolving fund for payments to  
3 certain persons providing information regarding certain  
4 criminal activities in controlled substance cases.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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*SF 415*

1 Section 1. Section 809.5, subsection 1, Code 1991, is  
2 amended to read as follows:

3 1. Seized property which is no longer required as evidence  
4 or for use in an investigation may be returned to the owner  
5 without the requirement of a hearing, ~~provided that~~ if the  
6 person's possession of the property is not prohibited by law  
7 and there is no forfeiture claim filed on behalf of the state.  
8 The seizing agency or prosecuting attorney shall send notice  
9 by regular mail, if the value of the property is less than  
10 fifty dollars, or certified mail, if the value of the property  
11 is equal to or greater than fifty dollars, to the last known  
12 address of any person having an ownership or possessory right  
13 in the property, stating that the property is released and  
14 must be claimed within thirty days. ~~Such~~ The notice shall  
15 state that if no written claim for the property is made upon  
16 the seizing agency within thirty days after the mailing of  
17 notice, the property shall be deemed abandoned and disposed of  
18 accordingly. ~~In the event that~~ if there is more than one  
19 party who may assert a right to possession or ownership of the  
20 property, the seizing agency shall not release the property to  
21 any party until the expiration of the date for filing claims  
22 unless all other claimants execute a written waiver. ~~In the~~  
23 ~~event that~~ if there is more than one claim filed for the  
24 return of property under this section, at the expiration of  
25 the period for filing claims the seizing agency or prosecuting  
26 attorney shall file a copy of all such claims with the clerk  
27 of court and the clerk shall proceed as if ~~such~~ the claims  
28 were filed by the parties under section 809.3. ~~In the event~~  
29 ~~that~~ if no owner can be located or no claim is filed under  
30 this section, the property shall be deemed abandoned and the  
31 seizing agency shall become the owner of ~~such~~ the property and  
32 may dispose of it in any reasonable manner. If the seizing  
33 agency sells the property, and the property was seized in a  
34 case involving a violation of chapter 204, it shall submit  
35 one-third of the proceeds, less expenses reasonably incurred,

1 to the department of justice for deposit in the revolving fund  
2 established in section 809.22.

3 Sec. 2. Section 809.13, subsection 4, Code 1991, is  
4 amended to read as follows:

5 4. Forfeited property which is not used by the department  
6 of justice in the enforcement of the law may be requisitioned  
7 by the department of public safety or any law enforcement  
8 agency within the state for use in enforcing the criminal laws  
9 of this state. Forfeited property not requisitioned or  
10 otherwise disposed of pursuant to this section shall be sold  
11 by the department of justice, which shall deposit one-third of  
12 the proceeds of property forfeited in a case involving a  
13 violation of chapter 204, less expenses reasonably incurred,  
14 in the revolving fund established in section 809.22. If the  
15 property is not suitable for sale or cannot be sold, it may be  
16 delivered to the director of the department of general  
17 services to be disposed of in the same manner as property  
18 received pursuant to section 18.15.

19 Sec. 3. Section 809.14, Code 1991, is amended by adding  
20 the following new subsection:

21 NEW SUBSECTION. 5. After deducting all expenses reason-  
22 ably incurred, the department of justice shall deposit one-  
23 third of any sale proceeds from the sale of forfeited property  
24 obtained in a case involving a violation of chapter 204, which  
25 is not otherwise disposed of pursuant to this section, in the  
26 revolving fund established in section 809.22.

27 Sec. 4. Section 809.21, Code 1991, is amended to read as  
28 follows:

29 809.21 SALE OF CERTAIN AMMUNITION AND FIREARMS.

30 Ammunition and firearms which are not illegal and which are  
31 not offensive weapons as defined by section 724.1 may be sold  
32 by the department of public safety at public auction. The  
33 department of public safety may sell at public auction  
34 forfeited legal weapons received from the director of the  
35 department of natural resources, except that rifles and

1 shotguns shall be retained by the department of natural  
2 resources for disposal according to its rules. The sale of  
3 ammunition or firearms pursuant to this section shall be made  
4 only to federally licensed firearms dealers or to persons who  
5 have a permit to purchase the firearms. Persons who have not  
6 obtained a permit may bid on firearms at the public auction.  
7 However, persons who bid without a permit must post a fifty  
8 percent of purchase price deposit with the commissioner of  
9 public safety on any winning bid. ~~No~~ A transfer of firearms  
10 may shall not be made to a person bidding without a permit  
11 until ~~such-time-as~~ the person has obtained a permit. If the  
12 person is unable to produce a permit within two weeks from the  
13 date of the auction, the person shall forfeit the fifty  
14 percent deposit to the department of public safety. ~~At~~ One-  
15 third of the proceeds of from the sale of firearms seized or  
16 forfeited in a case involving a violation of chapter 204 and  
17 sold at a public auction pursuant to this section, less  
18 department expenses reasonably incurred, shall be submitted to  
19 the department of justice for deposit in the revolving fund  
20 established in section 809.22. The remaining proceeds and  
21 proceeds from the sale of firearms seized or forfeited in  
22 other cases shall be deposited in the general fund of the  
23 state. The department of public safety shall be reimbursed  
24 from the proceeds for the reasonable expenses incurred in  
25 selling the property at the auction.

26 Sec. 5. NEW SECTION. 809.22 REVOLVING FUND ESTABLISHED.

27 1. A revolving fund is created in the state treasury under  
28 the control of the department of justice, in which the  
29 department of justice shall deposit proceeds from the sale of  
30 seized and forfeited property in cases involving a violation  
31 of chapter 204, as provided in this chapter.

32 2. The department of justice shall adopt rules governing  
33 the administration and disposition of moneys from the fund.  
34 Moneys in the fund shall be distributed to persons coming  
35 forward with information leading to a plea of guilty, verdict

1 of guilty, or special verdict upon which a judgment of  
2 conviction may be rendered, involving another person engaged  
3 in a violation of chapter 204 which was not otherwise  
4 reported. In order to be eligible to receive moneys from the  
5 fund, a person must complete an application in the form  
6 prescribed by the department of justice, and the department of  
7 justice must determine that the applicant was not involved in  
8 the commission of the offense as a principal, co-conspirator,  
9 aider and abettor, or accessory, and that the applicant is  
10 otherwise eligible to receive moneys as provided in this  
11 section.

12 3. Notwithstanding section 8.33, unencumbered or  
13 unobligated receipts in the revolving fund at the end of a  
14 fiscal year shall not revert to the general fund of the state.  
15 These receipts and the investment proceeds earned from the  
16 balance of the fund shall be credited to the fund and be  
17 available in subsequent fiscal years to be used for the  
18 purposes provided for in this section.

19 EXPLANATION

20 The bill provides for the establishment of a revolving fund  
21 to receive a portion of the proceeds from the sale of seized  
22 and forfeited property in cases involving controlled substance  
23 violations of chapter 204, to be distributed to persons  
24 providing information concerning such criminal activity. The  
25 bill provides that if such property is not used for law  
26 enforcement purposes or otherwise disposed of as permitted or  
27 required pursuant to chapter 809, the property shall be sold,  
28 if possible. Upon sale, one-third of the proceeds, less  
29 expenses reasonably incurred are to be deposited in the  
30 revolving fund.

31 The bill further provides that the department of justice  
32 shall adopt rules for the administration and distribution of  
33 moneys from the fund. Eligible applicants for moneys from the  
34 fund must fill out an application in the form prescribed by  
35 the department. In order to receive moneys, applicants must

1 have provided information leading to a guilty plea or verdict  
2 by another person involved in such criminal activity, and  
3 applicants must not be participants in the crimes themselves.  
4 In addition, the information must be such that it would not  
5 otherwise be reported.

6 The bill may include a state mandate as defined in section  
7 25B.3.

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