

Sen. Judiciary 5/8, Pass 6/6
Retail " 1/12/76, Pass 2/23

APR 29 1975

HOUSE FILE 835

Place On Calendar

By COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

House File 835
Judiciary
DeKoster, Chairman
Rodgers
Ramsey

Passed House, Date 5-5-75 (1527) Passed Senate, Date 2-27-76 (p. 630)
Vote: Ayes 87 Nays 0 Vote: Ayes 40 Nays 0
Approved 3-12-76

A BILL FOR

1 An Act providing that certain ammunition and firearms shall
2 be deposited with the state criminalistics laboratory.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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H-3744

1 Amend House File 835, page 1, line 21, by
2 striking the word "beig" and inserting in lieu there-
3 of the word "being".

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H-3744 FILED, ADOPTED
BY UNANIMOUS CONSENT (1527)
MAY 5, 1975

BY WYCKOFF of Benton

1 Section 1. Chapter seven hundred forty-nine A (749A),
2 Code 1975, is amended by adding the following new section:

3 NEW SECTION. DEPOSIT OF AMMUNITION AND FIREARMS.

4 1. Ammunition and firearms which are stolen or embezzled
5 or confiscated pursuant to a valid arrest or search warrant
6 and for which lawful possession is not established or for
7 which lawful title cannot be ascertained pursuant to chapters
8 six hundred forty-five (645) and seven hundred fifty-one (751)
9 of the Code shall be forwarded to the state criminalistics
10 laboratory for deposit by the law enforcement agency having
11 possession of such items. Ammunition and firearms which were
12 used in the perpetration or attempted perpetration of a crimi-
13 nal offense and are owned by the perpetrator of such offense
14 shall be forfeited to the state, and shall be deposited with
15 the state criminalistics laboratory if no longer required
16 in a criminal action for evidentiary purposes. Ammunition
17 and firearms forfeited shall become the property of the state.

18 2. Ammunition and firearms other than those forfeited
19 to the state, which come into the possession of the state
20 criminalistics laboratory may, at the discretion of the com-
21 missioner of public safety, after being retained for at least
22 one year, be destroyed, retained or exchanged with other
23 public agencies. Ammunition and firearms forfeited to the
24 state may be destroyed, retained, given to or exchanged with
25 other public agencies, within or without the state.

26 3. Ammunition and firearms subject to this Act shall not
27 be subject to the provisions of chapter five hundred fifty-
28 six (556) of the Code, or any other provisions of law relating
29 to abandoned property.

30 4. If any person claims to be entitled to any property
31 which may have been disposed of under this section, he may
32 file a claim for the value of such property as provided in
33 chapter twenty-five A (25A) of the Code.

34 Sec. 2. Section six hundred forty-five point five (645.5),
35 Code 1975, is amended to read as follows:

1 645.5 WHEN NOT CLAIMED. If the property stolen or embez-
2 zled, except ammunition or firearms, be not claimed by the
3 owner before the expiration of six months from the conviction
4 of the person for stealing or embezzling it, the magistrate
5 or other officer having it in his custody must, on payment
6 of the necessary expenses incurred for its preservation,
7 deliver it to the auditor of the county, to be applied under
8 the direction of the board of supervisors thereof for the
9 benefit of the poor of the county. If the stolen or embezzled
10 property is ammunition or a firearm and the property is not
11 claimed under the provisions of this section, the property
12 shall be disposed of pursuant to section one (1) of this Act.

13 Sec. 3. Section seven hundred fifty-one point twenty-six
14 (751.26), Code 1975, is amended to read as follows:

15 751.26 EXECUTION--SALE--DESTRUCTION. Execution shall
16 issue for the sale of all property, except money, ammunition
17 and firearms which may have a legitimate use, and for the
18 destruction of all property having no legitimate use. Sales
19 shall be made as provided by section 626.75. Due return of
20 the execution shall be made thereon by the officer executing
21 it. Ammunition and firearms shall be disposed of pursuant
22 to section one (1) of this Act.

23 EXPLANATION

24 This bill provides for the legal disposal of all firearms
25 and ammunition which are stolen, embezzled, or confiscated
26 pursuant to a valid arrest or search warrant by sending them
27 to the state criminalistics laboratory. If title to weapons
28 which are disposed of is subsequently obtained or proved,
29 a legal remedy is available to the owner.

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LSB 1894
be/cw/4

HOUSE FILE 835

AN ACT

PROVIDING THAT CERTAIN AMMUNITION AND FIREARMS SHALL BE DEPOSITED WITH THE STATE CRIMINALISTICS LABORATORY.

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

Section 1. Chapter seven hundred forty-nine A (749A), Code 1975, is amended by adding the following new section:

NEW SECTION. 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 chapters six hundred forty-five (645) and seven hundred fifty-one (751) of the Code 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.

2. 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 Act shall not be subject to the provisions of chapter five hundred fifty-six (556) of the Code, or any other provisions of law relating to abandoned property.

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

Sec. 2. Section six hundred forty-five point five (645.5), Code 1975, is amended to read as follows:

645.5 WHEN NOT CLAIMED. If the property stolen or embezzled, except ammunition or firearms, be not claimed by the owner before the expiration of six months from the conviction of the person for stealing or embezzling it, the magistrate or other officer having it in his custody must, on payment of the necessary expenses incurred for its preservation, deliver it to the auditor of the county, to be applied under the direction of the board of supervisors thereof for the benefit of the poor of the county. If the stolen or embezzled property is ammunition or a firearm and the property is not claimed under the provisions of this section, the property shall be disposed of pursuant to section one (1) of this Act.

Sec. 3. Section seven hundred fifty-one point twenty-six (751.26), Code 1975, is amended to read as follows:

751.26 EXECUTION--SALE--DESTRUCTION. Execution shall issue for the sale of all property, except money, ammunition and firearms which may have a legitimate use, and for the destruction of all property having no legitimate use. Sales shall be made as provided by section 626.75. Due return of the execution shall be made thereon by the officer executing

it. Ammunition and firearms shall be disposed of pursuant to section one (1) of this Act.

DALE M. COCHRAN
Speaker of the House

ARTHUR A. NEU
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 835, Sixty-sixth General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved 3/12, 1976

ROBERT D. RAY
Governor