

*Reprint 3/9/84*

Judiciary and Law Enforcement: Schroeder, Chair; Hammond and Parker.

*L. Pass 1/24 (p. 181)*

MAR 23 1983

E FILE 573

BY COMMITTEE ON JUDICIARY AND  
LAW ENFORCEMENT

Place On Calendar

(Formerly Study Bill 76)

Passed House, Date 3-6-84 (p. 128) Passed Senate, Date \_\_\_\_\_

Vote: Ayes 87 Nays 9 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

### A BILL FOR

1 An Act providing for the disposition of personal property  
 2 in the possession of the department of public safety.  
 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 573

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

3 NEW SECTION. DISPOSITION OF PERSONAL PROPERTY.

4 1. Personal property, except for property subject to  
5 forfeiture, motor vehicles subject to sale pursuant to sec-  
6 tion 321.89, weapons subject to disposition pursuant to sec-  
7 tion 691.9, and seized property subject to disposition pur-  
8 suant to chapter 809, which personal property is found or  
9 seized by, turned in to, or otherwise lawfully comes into  
10 the possession of the department of public safety and which  
11 the department does not own, shall be disposed of pursuant  
12 to this section. If by examining the property the owner or  
13 lawful custodian of the property is known or can be readily  
14 ascertained, the department shall notify the owner or custodian  
15 by certified mail directed to the owner's or custodian's last  
16 known address, as to the location of the property. If the  
17 identity or address of the owner cannot be determined, notice  
18 by one publication in a newspaper of general circulation in  
19 the area where the property was found is sufficient notice.  
20 Publication notice may contain multiple items.

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

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

25 b. Provides proper identification.

26 c. Demonstrates ownership or lawful possession of the  
27 property to the satisfaction of the department.

28 d. Makes payment to the department for any expenses in-  
29 curred, due to the removing, carrying, transporting, storing,  
30 or handling of the property.

31 3. After ninety days following the mailing or publica-  
32 tion of the notice required by this section, or if the owner  
33 or lawful custodian of the property is unknown or cannot be  
34 readily determined, or the department has not turned the prop-  
35 erty over to the owner, the lawful custodian, or the owner's

1 or custodian's representative, the department may dispose  
2 of the property in any lawful way, including but not limited  
3 to the following:

- 4 a. Selling the property at public auction with the pro-  
5 ceeds, less department expenses, going to the general fund  
6 of the state, however, the department shall be reimbursed  
7 from the proceeds for the reasonable expenses incurred in  
8 selling the property at the auction.
- 9 b. Retaining the property for the department's own use.
- 10 c. Giving the property to another agency of government.
- 11 d. Giving the property to an appropriate charitable or-  
12 ganization.
- 13 e. Destroying the property.

14 4. Except when a person appears in person or through a  
15 representative within the time periods set by this section,  
16 and satisfies the department that the person is the owner  
17 or lawful custodian of the property, disposition of the prop-  
18 erty shall be at the discretion of the department. The de-  
19 partment shall maintain the receipt and disposition records  
20 for all property processed under this section. Good faith  
21 compliance with this section is a defense to any claim or  
22 action at law or in equity regarding the disposition of the  
23 property.

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

26 691.9 DEPOSIT OF AMMUNITION AND FIREARMS.

27 1. Ammunition and firearms which are stolen or embezzled  
28 or confiscated pursuant to a valid arrest or search warrant  
29 and for which lawful possession is not established or for  
30 which lawful title cannot be ascertained pursuant to chapter  
31 809 shall be forwarded to the state criminalistics laboratory  
32 for deposit by the law enforcement agency having possession  
33 of such items. Ammunition and firearms which were used in  
34 the perpetration or attempted perpetration of a criminal  
35 offense and are owned by the perpetrator of such offense shall

1 be forfeited to the state, and shall be deposited with the  
2 state criminalistics laboratory if no longer required in a  
3 criminal action for evidentiary purposes. Ammunition and  
4 firearms forfeited shall become the property of the state  
5 and shall be disposed of as provided for in subsection 3.

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

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

19 3. Ammunitions and firearms acquired pursuant to subsec-  
20 tion 1 or 2 shall be disposed of, as follows:

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

24 b. Ammunition and firearms which are not illegal or which  
25 are not offensive weapons as defined by section 724.1 may  
26 be sold by the department at auction only to federally-licensed  
27 firearms dealers with the proceeds, less department expenses  
28 reasonably incurred, going to the general fund of the state.  
29 The department shall be reimbursed from the proceeds for the  
30 reasonable expenses incurred in selling the property at the  
31 auction.

32 c. Firearms and ammunition which are not given to or ex-  
33 changed with a public agency, or sold, or retained by the  
34 department of public safety for law enforcement use, shall  
35 be destroyed by the department of public safety.

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

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

9 EXPLANATION

10 This bill provides for a procedure to dispose of certain  
11 personal property acquired by the department of public safety.  
12 The procedure basically entails returning the property to  
13 the owner or lawful custodian of the property if known, unless  
14 the property is subject to the exceptions contained in  
15 subsection 1. If the owner or lawful custodian cannot be  
16 determined after following the bill's procedures, the  
17 department may dispose of the property. Subsection 3 provides  
18 for suggested methods of disposition.

19 The bill also provides that ammunition and firearms, after  
20 being retained for at least one year or when no longer needed  
21 in a criminal action or as evidence may be exchanged with  
22 another public agency if suitable for law enforcement, or  
23 if not illegal or an offensive weapon may be sold to a  
24 federally licensed dealer at auction or shall be sold. It  
25 further states that the state and its employees shall not  
26 be liable for a claim arising from the retention, gift, or  
27 sale of such ammunition or firearms. The bill would take  
28 effect July 1 after its enactment.

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HOUSE FILE 573

H-5037

1 Amend House File 573 as follows:

- 2 1. Page 3, by striking lines 24 through 31.
- 3 2. Page 3, line 32, by striking the letter "c"
- 4 and inserting in lieu thereof the letter "b".
- 5 3. Page 3, line 33, by striking the words "or
- 6 sold,".
- 7 4. Page 4, line 7, by striking the word "sale"
- 8 and inserting in lieu thereof the word "exchange".

H-5037 FILED JANUARY 26, 1984 BY MILLER of Woodbury  
*Law 3/6 (p. 727)*

HOUSE FILE 573

H-5229

1 Amend House File 573 as follows:

- 2 1. Page 1, by striking lines 28 through 30.
- 3 2. Page 3, by striking lines 26 through 28, and
- 4 inserting in lieu thereof the following: "be sold
- 5 at public auction. The sale of ammunition or firearms
- 6 pursuant to this paragraph shall be made only to
- 7 federally-licensed firearms dealers or to persons
- 8 who have a permit to purchase the firearms. Persons
- 9 who have not obtained a permit may bid on firearms
- 10 at the public auction. However, persons who bid
- 11 without a permit must post a fifty percent of purchase
- 12 price deposit with the commissioner on any winning
- 13 bid. No transfer of firearms may be made to a person
- 14 bidding without a permit until such time as the person
- 15 has obtained a permit. If the person is unable to
- 16 produce a permit within two weeks from the date of
- 17 the auction, the person shall forfeit the fifty percent
- 18 deposit to the department. All proceeds of a public
- 19 auction pursuant to this paragraph, less department
- 20 expenses reasonably incurred, shall be deposited in
- 21 the general fund of the state."

H-5229 FILED FEB. 21, 1984 BY SCHROEDER of Pottawattamie  
*Adopted 3/6 (p. 727)*

Sen. Judiciary 3/12 Do Pass 3/22 (p. 982)

HOUSE FILE 573

Judiciary  
Holt, Chair  
Drake  
Delubers

HOUSE FILE 573

BY COMMITTEE ON JUDICIARY AND  
LAW ENFORCEMENT

(As Amended and Passed by the House)

Passed House, Date 3-6-84 (p. 728) Passed Senate, Date 3-30-84 (p. 1178)

Vote: Ayes 87 Nays 9 Vote: Ayes 40 Nays 0

Approved April 30, 1984

## A BILL FOR

1 An Act providing for the disposition of personal property  
2 in the possession of the department of public safety.

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

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House Amendments \_\_\_\_\_

Deleted Language \*

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

3 NEW SECTION. DISPOSITION OF PERSONAL PROPERTY.

4 1. Personal property, except for property subject to  
5 forfeiture, motor vehicles subject to sale pursuant to sec-  
6 tion 321.89, weapons subject to disposition pursuant to sec-  
7 tion 691.9, and seized property subject to disposition pur-  
8 suant to chapter 809, which personal property is found or  
9 seized by, turned in to, or otherwise lawfully comes into  
10 the possession of the department of public safety and which  
11 the department does not own, shall be disposed of pursuant  
12 to this section. If by examining the property the owner or  
13 lawful custodian of the property is known or can be readily  
14 ascertained, the department shall notify the owner or custodian  
15 by certified mail directed to the owner's or custodian's last  
16 known address, as to the location of the property. If the  
17 identity or address of the owner cannot be determined, notice  
18 by one publication in a newspaper of general circulation in  
19 the area where the property was found is sufficient notice.  
20 Publication notice may contain multiple items.

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

- 24 a. Appears at the location where the property is located.
- 25 b. Provides proper identification.
- 26 c. Demonstrates ownership or lawful possession of the  
27 property to the satisfaction of the department.

\*28 3. After ninety days following the mailing or publica-  
29 tion of the notice required by this section, or if the owner  
30 or lawful custodian of the property is unknown or cannot be  
31 readily determined, or the department has not turned the prop-  
32 erty over to the owner, the lawful custodian, or the owner's  
33 or custodian's representative, the department may dispose  
34 of the property in any lawful way, including but not limited  
35 to the following:

- 1 a. Selling the property at public auction with the pro-  
2 ceeds, less department expenses, going to the general fund  
3 of the state, however, the department shall be reimbursed  
4 from the proceeds for the reasonable expenses incurred in  
5 selling the property at the auction.
- 6 b. Retaining the property for the department's own use.
- 7 c. Giving the property to another agency of government.
- 8 d. Giving the property to an appropriate charitable or-  
9 ganization.
- 10 e. Destroying the property.
- 11 4. Except when a person appears in person or through a  
12 representative within the time periods set by this section,  
13 and satisfies the department that the person is the owner  
14 or lawful custodian of the property, disposition of the prop-  
15 erty shall be at the discretion of the department. The de-  
16 partment shall maintain the receipt and disposition records  
17 for all property processed under this section. Good faith  
18 compliance with this section is a defense to any claim or  
19 action at law or in equity regarding the disposition of the  
20 property.
- 21 Sec. 2. Section 691.9, Code 1983, is amended to read as  
22 follows:
- 23 691.9 DEPOSIT OF AMMUNITION AND FIREARMS.
- 24 1. Ammunition and firearms which are stolen or embezzled  
25 or confiscated pursuant to a valid arrest or search warrant  
26 and for which lawful possession is not established or for  
27 which lawful title cannot be ascertained pursuant to chapter  
28 809 shall be forwarded to the state criminalistics laboratory  
29 for deposit by the law enforcement agency having possession  
30 of such items. Ammunition and firearms which were used in  
31 the perpetration or attempted perpetration of a criminal  
32 offense and are owned by the perpetrator of such offense shall  
33 be forfeited to the state, and shall be deposited with the  
34 state criminalistics laboratory if no longer required in a  
35 criminal action for evidentiary purposes. Ammunition and

1 firearms forfeited shall become the property of the state  
2 and shall be disposed of as provided for in subsection 3.

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

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

16 3. Ammunitions and firearms acquired pursuant to subsec-  
17 tion 1 or 2 shall be disposed of, as follows:

18 a. Ammunition and firearms which are suitable for use  
19 in law enforcement may be given to or exchanged with any  
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21 b. Ammunition and firearms which are not illegal or which  
22 are not offensive weapons as defined by section 724.1 may  
23 be sold at public auction. The sale of ammunition or firearms  
24 pursuant to this paragraph shall be made only to federally-  
25 licensed firearms dealers or to persons who have a permit  
26 to purchase the firearms. Persons who have not obtained a  
27 permit may bid on firearms at the public auction. However,  
28 persons who bid without a permit must post a fifty percent  
29 of purchase price deposit with the commissioner on any winning  
30 bid. No transfer of firearms may be made to a person bidding  
31 without a permit until such time as the person has obtained  
32 a permit. If the person is unable to produce a permit within  
33 two weeks from the date of the auction, the person shall  
34 forfeit the fifty percent deposit to the department. All  
35 proceeds of a public auction pursuant to this paragraph, less

1 department expenses reasonably incurred, shall be deposited  
2 in the general fund of the state. The department shall be  
3 reimbursed from the proceeds for the reasonable expenses  
4 incurred in selling the property at the auction.

5 c. Firearms and ammunition which are not given to or ex-  
6 changed with a public agency, or sold, or retained by the  
7 department of public safety for law enforcement use, shall  
8 be destroyed by the department of public safety.

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

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

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HOUSE FILE 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.

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DONALD D. AVENSON  
Speaker of the House

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ROBERT T. ANDERSON  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 573, Seventieth General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved April 30, 1984

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TERRY E. BRANSTAD  
Governor