

2006 SESSION

INTRODUCED

062434200

HOUSE BILL NO. 794

Offered January 11, 2006

Prefiled January 10, 2006

A BILL to amend and reenact § 19.2-386.29 of the Code of Virginia, relating to forfeiture of certain weapons; firearms; altered serial number.

Patrons—Hogan, Abbitt and Gear

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-386.29 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-386.29. Forfeiture of certain weapons used in commission of criminal offense.

All pistols, shotguns, rifles, dirks, bowie knives, switchblade knives, ballistic knives, razors, slingshots, brass or metal knucks, blackjacks, stun weapons and tasers, and other weapons used by any person in the commission of a criminal offense, shall, upon conviction of such person, be forfeited to the Commonwealth by order of the court trying the case. The court shall dispose of such weapons as it deems proper by entry of an order of record. Such disposition may include the destruction of the weapons or, subject to any registration requirements of federal law, sale of the firearms to a licensed dealer in such firearms in accordance with the provisions of Chapter 22 (§ 19.2-369 et seq.) of this title regarding sale of property forfeited to the Commonwealth.

The proceeds of any sale of such weapon shall be paid in accordance with the provisions of Article VIII, Section 8 of the Constitution of Virginia. In addition, the court may authorize the seizing law-enforcement agency to use the weapon for a period of time as specified in the order. When the seizing agency ceases to so use the weapon, it shall be disposed of as otherwise provided in this section.

However, upon petition to the court and notice to the attorney for the Commonwealth, the court, upon good cause shown, shall return any such weapon to its lawful owner after conclusion of all relevant proceedings if (i) such owner ~~(+)~~ did not know and had no reason to know of the conduct giving rise to the forfeiture, ~~and~~ (ii) such owner is not otherwise prohibited by law from possessing the weapon, and (iii) in the case of a firearm, the serial number has not been altered. The owner shall acknowledge in a sworn affidavit to be filed with the record in the case or cases that he has retaken possession of the weapon involved.

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HB794