



**IOWA HOUSE
DEMOCRATS**

Amendment SUMMARY

**Purchasing Seized
Weapons
HF 2342**

Status of Bill: House Floor
Committee: Public Safety (21-0)
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Lead Democrat: Representative Kacena
Floor Manager: Representative Heartsill

Background

HF 2342 amends Iowa's public nuisance code by prohibiting any seizing agency's employee or employee's immediate family member from purchasing weapons seized as public nuisance in violation of wildlife laws at a Department of Natural Resources (DNR) or Department of Public Safety (DPS) auction. Under Iowa's current provisions, any device or material used to violate the following chapters is considered public nuisance and may be seized without a warrant: wildlife conservation (481A); endangered wildlife (481B); commercial fishing (482); migratory birds (484A); and hunting preserve (484B). The language of this bill specifically targets weapons seized as a public nuisance (483A.32) and prohibits DNR employees (and immediate family) from participating in disposal of legal weapons per Iowa's sale of firearms provision (809.21).

On February 19th, 2018, the Iowa House of Representatives unanimously passed HF 2231, which amended Iowa law (481A.12) to require DNR's director to develop policies relating to search warrant requirements and investigative procedures to seize an illegally obtained animal from private property. The bill's language authorizes the department to determine when a search warrant is necessary and what information is required for the warrant's application. The bill was recommended passage by the Senate Natural Resources and Environment subcommittee, but has yet to be placed on the Senate's daily calendar.

Amendment Summary

H-8166 (Heartsill): Overall, this amendment alters the title of the bill, alters different sections of the Iowa Code and adds new language to the bill, including the following:

1. H-8166 creates a new section under Iowa law that prohibits the state from confiscating property that was used to illegally obtain wildlife (481A.12) or was seized per a wildlife search warrant (481A.13) unless the owner is convicted of the underlying wildlife violation. If the owner of the seized property is not convicted, the DNR must return possession of the property to the owner within thirty days of: (1) the date the owner was declared 'not guilty'; (2) the date the action was dismissed; or (3) the statute of limitation expiration date. This new section defines 'convicted' as being found guilty of a violation, payment of fine, entering a guilty plea, deferred judgment, suspended sentence, delinquency, or not being criminally charged due to cooperating with officials by providing information on the criminal activity of another.

2. H-8166 broadens HF 2342's language prohibiting employees and family members from purchasing weapons seized as a public nuisance to also include prohibiting the purchase of any fish, fur, bird,

animal, mussel, clam or frog seized as illegally obtained wildlife (481A.12) or as a public nuisance (483A.32).

3. Under current Iowa law, the director or any peace officer may seize and dispose of wildlife that has been illegally obtained. H-8166 amends this (481A.12) by requiring that all fish, furs, birds, or animals, mussels, clams or frogs seized must be relinquished to a DNR representative and maintained as evidence to be used in any trial per Iowa's wildlife search warrant provisions. As a result, this bill would prohibit the director or peace officer from disposing any seized illegally obtained wildlife.

4. Currently, any property used to illegally obtain wildlife is seized as evidence and kept for trial. If the owner is convicted of the underlying offense, then the DNR director or officials must confiscate the property indefinitely. H-8166 adds language to Iowa's wildlife search warrant provisions (481A.13) that allows confiscated property to be returned if the owner is not convicted of the underlying violation pertaining to the seized property.

5. H-8166 adds multiple subsections to Iowa's public nuisance chapter. Currently, Iowa Code (483A.32) declares any device or material used to violate Iowa's wildlife provisions as a public nuisance and should be seized by any DNR peace officer or official without warrant or process. This amendment adds the following limitations to seizing condemned property: (1) property seized as a public nuisance can be condemned by the state only if the owner is convicted of an underlying violation for which the property was seized; and (2) if the owner is not convicted, the seizing public agency must return the confiscated property to the owner within thirty days of dismissal, statute of limitations expiration, or found not guilty.

6. Currently, Iowa's Code relating to the disposition of seized property as a public nuisance (483A.33) requires the owner to apply within thirty days of the notice for return of the seized property. H-8166 amends this provision by allowing an application to be filed within thirty days after notice OR after the conviction date, whichever occurs later. Additionally, H-8166 reiterates that individuals who are not convicted of an underlying offense are entitled to the immediate return of property and are not required to complete an application. Individuals who were convicted and required to file an application must have a hearing set within ten to thirty days of either filing the claim or date of conviction, whichever occurs later.

7. H-8166 further amends Iowa's disposition of seized property code (483A.33) by adding the following requirements: (1) the DNR must report the amount of proceeds deposited to the state fish and game protection fund to the General Assembly's oversight before December 31, 2018 and by December 1 each subsequent year; (2) all public agencies that have custody of seized property must maintain records detailing the amount of property seized, the dates the property was acquired, the manner the property was disposed, the date of disposition, and any financial records concerning sold property; and (3) any records internally kept must be open to public inspection during the agency's public business hours.