

Senate Fiscal Agency
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SFA



BILL ANALYSIS

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Senate Bill 988 (Substitute S-4 as reported)
Sponsor: Senator Robert Geake
Committee: Hunting, Fishing and Forestry

Date Completed: 5-22-98

RATIONALE

Under the handgun licensure Act, all pistols, weapons, or devices carried or possessed contrary to the Act are declared forfeited to the State, and must be turned over to the Michigan State Police Commissioner or his or her designated representative, for such disposition as the Commissioner may prescribe. Apparently, some law enforcement officers scratch their initials or an identification number onto a seized firearm instead of attaching an identification tag on the firearm. Many gun owners believe that the law enforcement agency should be held responsible for negligently or intentionally defacing, losing, or damaging a seized firearm.

CONTENT

The bill would amend the governmental immunity Act to add that a law enforcement agency that seized a firearm would be civilly liable to each person who possessed an ownership interest in the firearm for negligently or intentionally losing, damaging, or defacing the firearm. The amount of damages that could be recovered would be limited to the fair market value of the firearm. The bill would take effect January 1, 1999.

Currently, the Act provides that all governmental agencies are immune from tort liability in cases in which the governmental agency is engaged in the exercise or discharge of a governmental function.

Proposed MCL 691.1407a

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would hold a law enforcement agency civilly liable for a seized firearm that was negligently or intentionally lost, damaged, or defaced while in the possession of the law enforcement agency. Under the bill, an officer's initials or identification number scratched onto the firearm could result in recoverable damages limited to the fair market value of the firearm. By limiting the recoverable damages to the fair market value, the bill would prevent frivolous lawsuits and provide gunowners a fair price.

Opposing Argument

In most violent criminal cases, an officer must identify a firearm found on the scene as evidence in court. Since identification tags can be tampered with or removed from a firearm, some officers scratch their initials directly on to the firearm to identify it positively as evidence in court. Furthermore, it is not clear why law enforcement agencies should be specifically liable for firearms but not other types of evidence.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill would have a fiscal impact on State and local law enforcement agencies that cannot be determined at this time. It is not known how many law enforcement agencies, if any, would negligently or intentionally lose or damage a seized firearm for which they would be fiscally liable.

Fiscal Analyst: B. Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.