

1-1 By: Perry, et al. (Senate Sponsor - Estes) H.B. No. 1421  
 1-2 (In the Senate - Received from the House May 6, 2013;  
 1-3 May 7, 2013, read first time and referred to Committee on Criminal  
 1-4 Justice; May 9, 2013, reported favorably by the following vote:  
 1-5 Yeas 7, Nays 0; May 9, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			

1-15 A BILL TO BE ENTITLED  
 1-16 AN ACT

1-17 relating to the disposition of certain seized weapons.  
 1-18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-19 SECTION 1. Article 18.19, Code of Criminal Procedure, is  
 1-20 amended by amending Subsections (c), (d), and (e) and adding  
 1-21 Subsection (d-1) to read as follows:  
 1-22 (c) If there is no prosecution or conviction for an offense  
 1-23 involving the weapon seized, the magistrate to whom the seizure was  
 1-24 reported shall, before the 61st day after the date the magistrate  
 1-25 determines that there will be no prosecution or conviction, notify  
 1-26 in writing the person found in possession of the weapon that the  
 1-27 person is entitled to the weapon upon written request to the  
 1-28 magistrate. The magistrate shall order the weapon returned to the  
 1-29 person found in possession before the 61st day after the date the  
 1-30 magistrate receives a request from the person. If the weapon is not  
 1-31 requested before the 61st day after the date of notification, the  
 1-32 magistrate shall, before the 121st day after the date of  
 1-33 notification, order the weapon destroyed, sold at public sale by  
 1-34 the law enforcement agency holding the weapon or by an auctioneer  
 1-35 licensed under Chapter 1802, Occupations Code, or forfeited to the  
 1-36 state for use by the law enforcement agency holding the weapon or by  
 1-37 a county forensic laboratory designated by the magistrate. If the  
 1-38 magistrate does not order the return, destruction, sale, or  
 1-39 forfeiture of the weapon within the applicable period prescribed by  
 1-40 this subsection, the law enforcement agency holding the weapon may  
 1-41 request an order of destruction, sale, or forfeiture of the weapon  
 1-42 from the magistrate. Only a firearms dealer licensed under 18  
 1-43 U.S.C. Section 923 may purchase a weapon at public sale under this  
 1-44 subsection. Proceeds from the sale of a seized weapon under this  
 1-45 subsection shall be transferred, after the deduction of court costs  
 1-46 to which a district court clerk is entitled under Article 59.05(f),  
 1-47 followed by the deduction of auction costs, to the law enforcement  
 1-48 agency holding the weapon.  
 1-49 (d) A person either convicted or receiving deferred  
 1-50 adjudication under Chapter 46, Penal Code, is entitled to the  
 1-51 weapon seized upon request to the court in which the person was  
 1-52 convicted or placed on deferred adjudication. However, the court  
 1-53 entering the judgment shall order the weapon destroyed, sold at  
 1-54 public sale by the law enforcement agency holding the weapon or by  
 1-55 an auctioneer licensed under Chapter 1802, Occupations Code, or  
 1-56 forfeited to the state for use by the law enforcement agency holding  
 1-57 the weapon or by a county forensic laboratory designated by the  
 1-58 court if:  
 1-59 (1) the person does not request the weapon before the  
 1-60 61st day after the date of the judgment of conviction or the order  
 1-61 placing the person on deferred adjudication;

2-1 (2) the person has been previously convicted under  
2-2 Chapter 46, Penal Code;

2-3 (3) the weapon is one defined as a prohibited weapon  
2-4 under Chapter 46, Penal Code;

2-5 (4) the offense for which the person is convicted or  
2-6 receives deferred adjudication was committed in or on the premises  
2-7 of a playground, school, video arcade facility, or youth center, as  
2-8 those terms are defined by Section 481.134, Health and Safety Code;  
2-9 or

2-10 (5) the court determines based on the prior criminal  
2-11 history of the defendant or based on the circumstances surrounding  
2-12 the commission of the offense that possession of the seized weapon  
2-13 would pose a threat to the community or one or more individuals.

2-14 (d-1) Only a firearms dealer licensed under 18 U.S.C.  
2-15 Section 923 may purchase a weapon at public sale under Subsection  
2-16 (d). Proceeds from the sale of a seized weapon under Subsection (d)  
2-17 shall be transferred, after the deduction of court costs to which a  
2-18 district court clerk is entitled under Article 59.05(f), followed  
2-19 by the deduction of auction costs, to the law enforcement agency  
2-20 holding the weapon.

2-21 (e) If the person found in possession of a weapon is  
2-22 convicted of an offense involving the use of the weapon, before the  
2-23 61st day after the date of conviction the court entering judgment of  
2-24 conviction shall order destruction of the weapon, sale at public  
2-25 sale by the law enforcement agency holding the weapon or by an  
2-26 auctioneer licensed under Chapter 1802, Occupations Code, or  
2-27 forfeiture to the state for use by the law enforcement agency  
2-28 holding the weapon or by a county forensic laboratory designated by  
2-29 the court. If the court entering judgment of conviction does not  
2-30 order the destruction, sale, or forfeiture of the weapon within the  
2-31 period prescribed by this subsection, the law enforcement agency  
2-32 holding the weapon may request an order of destruction, sale, or  
2-33 forfeiture of the weapon from a magistrate. Only a firearms dealer  
2-34 licensed under 18 U.S.C. Section 923 may purchase a weapon at public  
2-35 sale under this subsection. Proceeds from the sale of a seized  
2-36 weapon under this subsection shall be transferred, after the  
2-37 deduction of court costs to which a district court clerk is entitled  
2-38 under Article 59.05(f), followed by the deduction of auction costs,  
2-39 to the law enforcement agency holding the weapon.

2-40 SECTION 2. This Act takes effect September 1, 2013.

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