

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 215 be amended to read as follows:

- 1 Page 4, line 6, delete "only".
- 2 Page 4, line 6, after "disbursed" insert "**only**".
- 3 Page 5, between lines 34 and 35, begin a new paragraph and insert:
- 4 "SECTION 4. IC 34-24-1-9 IS AMENDED TO READ AS
- 5 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. (a) Upon motion of
- 6 a prosecuting attorney **or the Indiana state police department** under
- 7 IC 35-33-5-5(j), property seized under this chapter must be transferred,
- 8 subject to the perfected liens or other security interests of any person
- 9 in the property, to the appropriate federal authority for disposition
- 10 under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e) and any
- 11 related regulations adopted by the United States Department of Justice.
- 12 (b) Money received by a law enforcement agency as a result of a
- 13 forfeiture under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C.
- 14 881(e) and any related regulations adopted by the United States
- 15 Department of Justice must be deposited into a nonreverting fund and
- 16 may be expended only with the approval of:
- 17 (1) the executive (as defined in IC 36-1-2-5), if the money is
- 18 received by a local law enforcement agency; or
- 19 (2) the governor, if the money is received by a law enforcement
- 20 agency in the executive branch.
- 21 The money received under this subsection must be used solely for the
- 22 benefit of any agency directly participating in the seizure or forfeiture
- 23 for purposes consistent with federal laws and regulations.
- 24 SECTION 5. IC 35-33-5-5, AS AMENDED BY P.L.1-2007,

1 SECTION 225, IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) All items of property seized
3 by any law enforcement agency as a result of an arrest, search warrant,
4 or warrantless search, shall be securely held by the law enforcement
5 agency under the order of the court trying the cause, except as provided
6 in this section.

7 (b) Evidence that consists of property obtained unlawfully from its
8 owner may be returned by the law enforcement agency to the owner
9 before trial, in accordance with IC 35-43-4-4(h).

10 (c) Following the final disposition of the cause at trial level or any
11 other final disposition the following shall be done:

12 (1) Property which may be lawfully possessed shall be returned
13 to its rightful owner, if known. If ownership is unknown, a
14 reasonable attempt shall be made by the law enforcement agency
15 holding the property to ascertain ownership of the property. After
16 ninety (90) days from the time:

17 (A) the rightful owner has been notified to take possession of
18 the property; or

19 (B) a reasonable effort has been made to ascertain ownership
20 of the property;

21 the law enforcement agency holding the property shall, at a
22 convenient time, dispose of this property at a public auction. The
23 proceeds of this property shall be paid into the county general
24 fund.

25 (2) Except as provided in subsection (e), property, the possession
26 of which is unlawful, shall be destroyed by the law enforcement
27 agency holding it sixty (60) days after final disposition of the
28 cause.

29 (3) A firearm that has been seized from a person who is
30 dangerous (as defined in IC 35-47-14-1) shall be retained,
31 returned, or disposed of in accordance with IC 35-47-14.

32 (d) If any property described in subsection (c) was admitted into
33 evidence in the cause, the property shall be disposed of in accordance
34 with an order of the court trying the cause.

35 (e) A law enforcement agency may destroy or cause to be destroyed
36 chemicals, controlled substances, or chemically contaminated
37 equipment (including drug paraphernalia as described in
38 IC 35-48-4-8.5) associated with the illegal manufacture of drugs or
39 controlled substances without a court order if all the following
40 conditions are met:

41 (1) The law enforcement agency collects and preserves a
42 sufficient quantity of the chemicals, controlled substances, or
43 chemically contaminated equipment to demonstrate that the
44 chemicals, controlled substances, or chemically contaminated
45 equipment was associated with the illegal manufacture of drugs
46 or controlled substances.

- 1 (2) The law enforcement agency takes photographs of the illegal
2 drug manufacturing site that accurately depict the presence and
3 quantity of chemicals, controlled substances, and chemically
4 contaminated equipment.
- 5 (3) The law enforcement agency completes a chemical inventory
6 report that describes the type and quantities of chemicals,
7 controlled substances, and chemically contaminated equipment
8 present at the illegal manufacturing site.
- 9 The photographs and description of the property shall be admissible
10 into evidence in place of the actual physical evidence.
- 11 (f) For purposes of preserving the record of any conviction on
12 appeal, a photograph demonstrating the nature of the property, and an
13 adequate description of the property must be obtained before the
14 disposition of the property. In the event of a retrial, the photograph and
15 description of the property shall be admissible into evidence in place
16 of the actual physical evidence. All other rules of law governing the
17 admissibility of evidence shall apply to the photographs.
- 18 (g) The law enforcement agency disposing of property in any
19 manner provided in subsection (b), (c), or (e) shall maintain certified
20 records of any disposition under subsection (b), (c), or (e). Disposition
21 by destruction of property shall be witnessed by two (2) persons who
22 shall also attest to the destruction.
- 23 (h) This section does not affect the procedure for the disposition of
24 firearms seized by a law enforcement agency.
- 25 (i) A law enforcement agency that disposes of property by auction
26 under this section shall permanently stamp or otherwise permanently
27 identify the property as property sold by the law enforcement agency.
- 28 (j) Upon motion of the prosecuting attorney **or the Indiana state**
29 **police department**, the court shall order property seized under
30 IC 34-24-1 transferred, subject to the perfected liens or other security
31 interests of any person in the property, to the appropriate federal
32 authority for disposition under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or
33 21 U.S.C. 881(e) and any related regulations adopted by the United
34 States Department of Justice."
- 35 Renumber all SECTIONS consecutively.
(Reference is to ESB 215 as printed April 5, 2011.)

Representative Foley