S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
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Opinion No. 07-26

Forfeiture of rifle / hunting violations

QUESTION

Does Tenn. Code Ann. § 39-17-1317(a) give a judge discretion to return a rifle used to violate the hunting laws under Tenn. Code Ann. § 70-6-201, or does Tenn. Code Ann. § 39-17-1317 require forfeiture of the rifle regardless of Tenn. Code Ann. § 70-6-201?

OPINION

Tenn. Code Ann. § 39-17-1317 is inapplicable to authorize either a return or a forfeiture of a rifle used to violate the hunting laws because the provisions set forth in Tenn. Code Ann. §§ 70-6-101 to 202 control the enforcement of wildlife laws, and Tenn. Code Ann. § 70-6-201 specifies when and how contraband is to be confiscated.

ANALYSIS

This office concluded in Op. Tenn. Att'y Gen. 82-228 (April 26, 1982) that firearms seized in connection with violations of the state wildlife laws are to be disposed of as provided by Tenn. Code Ann. § 51-707, now codified as Tenn. Code Ann. §70-6-202, rather than as provided in Title 39. The reasoning of that opinion and its reliance on *State v. McCrary*, 205 Tenn. 306, 326 S.W.2d 473 (1959), remain valid under the current statutory scheme.

Accordingly, this Office concludes that the sole statutory authority for disposing of a rifle used to violate the hunting laws of this state is in Title 70, Chapter 6, Part 2. Under §§70-6-201, 202, any firearm used to violate the State Wildlife Laws "shall be confiscated and forfeited to the State." It follows that a judge does not have discretion pursuant to Tenn. Code Ann. § 39-17-1317(a) to return a rifle used to violate the hunting laws.

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