

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 443
Judiciary II Committee Substitute Adopted 5/2/13
House Committee Substitute Favorable 6/5/13

Short Title: Disposition of Abandoned Firearms.

(Public)

Sponsors:

Referred to:

March 27, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE DISPOSITION OF FIREARMS BY LAW
3 ENFORCEMENT AGENCIES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 15-11.1(b1) reads as rewritten:

6 "(b1) Notwithstanding subsections (a) and (b) of this section or any other provision of
7 law, if the property seized is a firearm and the district attorney determines the firearm is no
8 longer necessary or useful as evidence in a criminal trial, the district attorney, after notice to all
9 parties known or believed by the district attorney to have an ownership or a possessory interest
10 in the firearm, including the defendant, shall apply to the court for an order of disposition of the
11 firearm. The judge, after hearing, may order the disposition of the firearm in one of the
12 following ways:

13 ...

14 (3) By ordering the firearm turned over to be destroyed by the sheriff of the
15 county in which the firearm was seized or by his duly authorized ~~agent~~
16 agent if the firearm does not have a legible, unique identification number or
17 is unsafe for use because of wear, damage, age, or modification. The sheriff
18 shall maintain a record of the destruction of the firearm.

19 ...

20 This subsection (b1) is not applicable to seizures pursuant to G.S. 113-137 of firearms used
21 only in connection with a violation of Article 22 of Chapter 113 of the General Statutes or any
22 local wildlife hunting ordinance."

23 **SECTION 2.** G.S. 15-11.2 reads as rewritten:

24 "**§ 15-11.2. Disposition of unclaimed firearms not confiscated or seized as trial evidence.**

25 (a) Definition. – For purposes of this section, the term "unclaimed firearm" means a
26 firearm that is found or received by a law enforcement agency and that remains unclaimed by
27 the person who may be entitled to it for a period of 30 days after the publication of the notice
28 required by subsection (b) of this section. The term does not include a firearm that is seized and
29 disposed of pursuant to G.S. 15-11.1 or a firearm that is confiscated and disposed of pursuant to
30 G.S. 14-269.1.

31 (b) Published Notice of Unclaimed Firearm. – When a law enforcement agency finds or
32 receives a firearm and the firearm remains unclaimed for a period of 180 days, the agency shall
33 publish at least one notice in a newspaper published in the county in which the agency is
34 located. The notice shall include all of the following:



- 1 (1) A statement that the firearm is unclaimed and is in the custody of the law
2 enforcement agency.
- 3 (2) A statement that the firearm may be sold or otherwise disposed of unless the
4 firearm is claimed within 30 days of the date of the publication of the notice.
- 5 (3) A brief description of the firearm and any other information that the chief or
6 head of the law enforcement agency may consider necessary or advisable to
7 reasonably inform the public about the firearm.

8 ~~(c) If the firearm remains unclaimed for a period of 30 days after the publication of the~~
9 ~~notice, then the person who found the firearm and turned it over to the law enforcement agency~~
10 ~~may claim the firearm provided the person satisfies the custodial law enforcement agency~~
11 ~~holding the firearm that the person is qualified under State and federal law to possess the~~
12 ~~firearm and also presents a pistol permit issued in accordance with Article 52A of Chapter 14~~
13 ~~of the General Statutes.~~

14 (d) If the firearm remains unclaimed for a period of 30 days after the publication of the
15 notice and the person who found the firearm does not claim it as provided by subsection (c) of
16 this section, notice, then the head or chief of the law enforcement agency may apply to the
17 appropriate district court for an order of disposition of the unclaimed firearm. The application
18 shall be written.

19 (e) Disposition of Firearm.—The judge, after hearing, may order the disposition shall
20 order the disposition of the firearm in one of the following ways:

- 21 (1) By ordering the firearm turned over to be having the firearm destroyed if the
22 firearm does not have a legible, unique identification number or is unsafe for
23 use because of wear, damage, age, or modification and will not be disposed
24 of pursuant to subdivision (3) of this subsection. The head or chief of the law
25 enforcement agency shall destroyed by the sheriff of the county in which the
26 law enforcement agency applying for the order of disposition is located or by
27 the sheriff's duly authorized agent. The sheriff shall maintain a record of the
28 destruction of the firearm.
- 29 (2) By ordering the firearm turned over to the law enforcement agency applying
30 for the disposition of the firearm for (i) the official use of the agency or (ii)
31 sale, trade, or exchange by the agency to a federally licensed firearm dealer
32 in accordance with all applicable State and federal firearm laws. laws or by
33 sale of the firearm at a public auction to persons licensed as firearms
34 collectors, dealers, importers, or manufacturers. The court may order a
35 disposition head or chief of the law enforcement agency shall dispose of the
36 firearm pursuant to this subsection-subdivision only if the firearm has a
37 legible, unique identification number.
- 38 (3) By maintaining the firearm for training or experimental purposes or
39 transferring the firearm to a museum or historical society.

40 (f) Disbursement of Proceeds of Sale. – If the law enforcement agency sells the
41 firearm, firearm pursuant to subdivision (2) of subsection (e) of this section, then the proceeds
42 of the sale shall be retained by the law enforcement agency and used for law enforcement
43 purposes. The receiving law enforcement agency shall maintain a record and inventory of all
44 firearms received pursuant to this section-section, as well as the disposition of the firearm,
45 including any funds received from a sale of a firearm or any firearms or other property received
46 in exchange or trade of a firearm."

47 **SECTION 3.** G.S. 14-269.1(4) reads as rewritten:

- 48 "(4) By ordering such weapon turned over to the sheriff of the county in which
49 the trial is held or his duly authorized agent to be ~~destroyed.~~ destroyed if the
50 firearm does not have a legible, unique identification number or is unsafe for

1 use because of wear, damage, age, or modification. The sheriff shall
2 maintain a record of the destruction thereof."
3 **SECTION 4.** This act becomes effective September 1, 2013, and applies to any
4 firearm found or received by a local law enforcement agency on or after that date and to any
5 judicial order for the disposition of any firearm on or after that date.