

1 AN ACT relating to the destruction of confiscated firearms.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 16.220 is amended to read as follows:

4 (1) Subject to the duty to return confiscated firearms to innocent owners pursuant  
5 to KRS 500.090, all firearms confiscated by the Department of Kentucky  
6 State Police and not retained for official use pursuant to KRS 500.090 shall be

7 ~~destroyed~~~~[sold at public auction to:~~

8 ~~(a) Federally licensed firearms dealers holding a license appropriate for the type  
9 of firearm sold; or~~

10 ~~(b) For a firearm which was used in a homicide, any person who certifies on a  
11 form provided by the Department of Kentucky State Police prior to placing a  
12 bid that he or she will, upon completion of the auction, leave the firearm with  
13 the Department of Kentucky State Police for destruction. A state or local  
14 government or agency thereof shall not purchase a firearm under this  
15 paragraph.~~

16 ~~(2) Any provision of KRS Chapter 45 or 45A relating to disposition of property  
17 to the contrary notwithstanding, the Department of Kentucky State Police  
18 shall:~~

19 ~~(a) Conduct any auction specified by this section;~~

20 ~~(b) Retain for departmental use twenty percent (20%) of the gross proceeds from  
21 any auction specified by this section;~~

22 ~~(c) Transfer remaining proceeds of the sale to the account of the Kentucky Office  
23 of Homeland Security for use as provided in subsection (5) of this section;  
24 and~~

25 ~~(d) For any sale pursuant to subsection (1)(b) of this section, destroy the firearm].~~

26 ~~(2)(3)~~ Prior to the ~~destruction~~~~[sale]~~ of any firearm, the Department of Kentucky  
27 State Police shall make an attempt to determine if the firearm to be ~~destroyed~~~~[sold]~~

1 has been stolen or otherwise unlawfully obtained from an innocent owner and  
2 return the firearm to its lawful innocent owner, unless that person is ineligible to  
3 purchase a firearm under federal law.

4 ~~(3)~~~~(4)~~ The Department of Kentucky State Police shall receive firearms and  
5 ammunition confiscated by or abandoned to every law enforcement agency in  
6 Kentucky. The department shall dispose of the firearms received in the manner  
7 specified in subsection (1)~~subsections (1) and (2)~~ of this section. ~~However,~~  
8 ~~firearms which are not retained for official use, returned to an innocent lawful~~  
9 ~~owner, or transferred to another government agency or public museum shall be sold~~  
10 ~~as provided in subsection (1) of this section.~~

11 ~~(5) The proceeds of firearms sales shall be utilized by the Kentucky Office of~~  
12 ~~Homeland Security to provide grants to city, county, charter county, unified local~~  
13 ~~government, urban county government, and consolidated local government police~~  
14 ~~departments; university safety and security departments organized pursuant to KRS~~  
15 ~~164.950; school districts that employ special law enforcement officers as defined in~~  
16 ~~KRS 61.900; and sheriff's departments for the purchase of:~~

17 ~~(a) Body armor for sworn peace officers of those departments and service~~  
18 ~~animals, as defined in KRS 525.010, of those departments;~~

19 ~~(b) Firearms or ammunition;~~

20 ~~(c) Electronic control devices, electronic control weapons, or electro-muscular~~  
21 ~~disruption technology; and~~

22 ~~(d) Body worn cameras.~~

23 ~~— In awarding grants under this section, the Kentucky Office of Homeland Security~~  
24 ~~shall give first priority to providing and replacing body armor and second priority to~~  
25 ~~providing firearms and ammunition, with residual funds available for the purchase~~  
26 ~~of body worn cameras, electronic control devices, electronic control weapons, or~~  
27 ~~electro-muscular disruption technology. Body armor purchased by the department~~

1 receiving grant funds shall meet or exceed the standards issued by the National  
 2 Institute of Justice for body armor. No police or sheriff's department shall apply for  
 3 a grant to replace existing body armor unless that body armor has been in actual use  
 4 for a period of five (5) years or longer. Any department applying for grant funds for  
 5 body worn cameras shall develop a policy for their use and shall submit that policy  
 6 with its application for the grant funds to the Office of Homeland Security as part of  
 7 the application process.

8 ~~(6) The Department of Kentucky State Police may transfer a machine gun, short-~~  
 9 ~~barreled shotgun, short barreled rifle, silencer, pistol with a shoulder stock, any~~  
 10 ~~other weapon, or destructive device as defined by the National Firearms Act which~~  
 11 ~~is subject to registration under the National Firearms Act and is not properly~~  
 12 ~~registered in the national firearms transfer records for those types of weapons, to the~~  
 13 ~~Bureau of Alcohol, Tobacco, and Firearms of the United States Department of~~  
 14 ~~Justice, after a reasonable attempt has been made to transfer the firearm to an~~  
 15 ~~eligible state or local law enforcement agency or to an eligible museum and no~~  
 16 ~~eligible recipient will take the firearm or weapon. National Firearms Act firearms~~  
 17 ~~and weapons which are properly registered and not returned to an innocent lawful~~  
 18 ~~owner or retained for official use as provided in this section shall be sold in~~  
 19 ~~accordance with subsection (1) of this section.]~~

20 ➔Section 2. KRS 45.777 is amended to read as follows:

- 21 (1) The proceeds from the sale of major items of equipment or real property, purchased  
 22 in whole or in part with capital construction funds, shall be deposited into the  
 23 general fund unless federal funding restraints require otherwise.
- 24 (2) The provisions of this section shall not apply to:
- 25 (a) The sale of real property held as right-of-way; **or**
- 26 (b) The sale of equipment by the Transportation Cabinet~~;~~ ~~or~~
- 27 (c) ~~The sale of confiscated firearms].~~

1           ➔Section 3. KRS 147A.002 is amended to read as follows:

- 2       (1) The Department for Local Government shall be headed by a commissioner and  
3       shall consist of the:
- 4       (a) Office of Financial Management and Administration, which shall be headed  
5           by an executive director appointed by the commissioner and shall be  
6           responsible for duties including but not limited to:
- 7           1. Local government financial assistance;
- 8           2. County budget approval;
- 9           3. Performance of various recordkeeping requirements for the  
10           Commonwealth's cities, counties, and special districts;
- 11           4. Provision of administrative support for the state local debt officer and  
12           the state local finance officer;
- 13           5. Administration of the county officials training incentive program set  
14           forth in KRS 64.5275; and
- 15           6. Provision of financial analysis and guidance related to the internal  
16           budgetary processes of the Department for Local Government;
- 17       (b) Office of Federal Grants, which shall be headed by an executive director  
18           appointed by the commissioner and shall be responsible for the administration  
19           of all federal grant programs;
- 20       (c) Office of State Grants, which shall be headed by an executive director  
21           appointed by the commissioner and shall be responsible for the administration  
22           of all state grant programs, including the Renaissance on Main Program, the  
23           area development fund,~~[the body armor program set forth in KRS 16.220,]~~  
24           the cemetery fund program, single county coal severance grants, and any state  
25           grant programs or individually funded projects awarded by statute or budget;
- 26       (d) Office of Legal Services, which shall be headed by an executive director  
27           appointed by the commissioner and shall be responsible for legal services

1           within the Department for Local Government and for its constituencies around  
2           the Commonwealth; and

3           (e) Office of Field Services, which shall be headed by an executive director  
4           appointed by the commissioner and shall be responsible for duties including  
5           but not limited to staffing regional offices to assist local governments.

6           (2) The commissioner, with the approval of the Governor, shall appoint necessary  
7           deputies, assistants, attorneys, and other employees and shall fix their compensation and  
8           authorize payment of their expenses according to law.

9           ➔Section 4. KRS 500.090 is amended to read as follows:

10          (1) Except as provided in KRS 500.092, all property which is subject to forfeiture  
11          under any section of the Kentucky Penal Code shall be disposed of in accordance  
12          with this section.

13          (a) Property other than firearms which is forfeited under any section of this code  
14          may, upon order of the trial court, be destroyed by the sheriff of the county in  
15          which the conviction was obtained.

16          (b) Property other than firearms which is forfeited under any section of this code  
17          may, upon order of the trial court, be sold at public auction. The expenses of  
18          keeping and selling such property and the amount of all valid recorded liens  
19          that are established by intervention as being bona fide shall be paid out of the  
20          proceeds of the sale. The balance shall be paid to:

21                 1. The state, if the property was seized by an agency of the state or peace  
22                 officer thereof;

23                 2. The county, if the property was seized by the sheriff or an agency or  
24                 peace officer of the county;

25                 3. The Department of Fish and Wildlife Resources, if the property was  
26                 seized by a peace officer of the Department of Fish and Wildlife or was  
27                 seized by any other officer for violation of KRS Chapter 150;

- 1           4.    The city, if the property was seized by the city or by an agency or peace  
2           officer thereof and the property was delivered to the city property clerk;
- 3           5.    The city (ninety percent (90%) of the proceeds) and the sheriff (ten  
4           percent (10%) of the proceeds), if the property was seized by the city or  
5           by an agency or peace officer thereof and the property was delivered to  
6           the sheriff or the county police; or
- 7           6.    The state, if the property was seized by any combination of agencies  
8           listed above.
- 9           (c) 1.   Subject to the duty to return confiscated firearms and ammunition to  
10           innocent owners pursuant to this section, all firearms and ammunition  
11           confiscated by a state or local law enforcement agency, all firearms  
12           ordered forfeited by a court, and all abandoned firearms and ammunition  
13           coming into the custody of a state or local law enforcement agency and  
14           not retained for official use shall be transferred to the Department of  
15           Kentucky State Police for disposition as provided by KRS 16.220.
- 16           2.   The transfer shall occur not more than ninety (90) days after the  
17           abandonment of the firearm or ammunition to the law enforcement  
18           agency or not more than ninety (90) days after its confiscation, unless a  
19           court requires the firearm or ammunition for use as evidence, in which  
20           case it shall be transferred to the Department of Kentucky State Police  
21           not more than ninety (90) days following the order of forfeiture by the  
22           court or after the court returns the firearm or ammunition from use as  
23           evidence. ~~Prior to the sale of any firearm or ammunition, the law~~  
24           ~~enforcement agency shall make a bona fide attempt to determine if the~~  
25           ~~firearm or ammunition to be sold has been stolen or otherwise~~  
26           ~~unlawfully obtained from an innocent owner and return the firearm and~~  
27           ~~ammunition to its lawful innocent owner, unless that person is ineligible~~

1 ~~to purchase a firearm under federal law.]~~

2 **3.** This subsection relating to auction of firearms and ammunition shall not  
3 apply to firearms and ammunition auctioned by the Department of Fish  
4 and Wildlife that may be sold to individual purchasers residing in  
5 Kentucky who are eligible under federal law to purchase firearms and  
6 ammunition of the type auctioned.

7 (d) If property which is forfeited under any section of this code is determined by  
8 the trial court to be worthless, encumbered with liens in excess of its value, or  
9 otherwise a burdensome asset, the court may abandon any interest in such  
10 property. Property which is abandoned pursuant to this section shall be  
11 returned to the lawful claimant upon payment of expenses for keeping the  
12 property.

13 (e) Property which is forfeited under any section of this code may, upon order of  
14 the trial court, be retained for official use in the following manner. Property  
15 which has been seized by an agency of the state may be retained for official  
16 state use. Property which has been seized by an agency of **a** county, city,  
17 **charter county government,**~~[or]~~ urban-county government, **consolidated local**  
18 **government, or unified local government** may be retained for official use by  
19 the government whose agency seized the property or for official state use.  
20 Property seized by any other unit of government may be retained only for  
21 official state use. The expenses for keeping and transferring such property  
22 shall be paid by the unit of government by which the property is retained.

23 (2) Money which has been obtained or conferred in violation of any section of this code  
24 shall, upon conviction, be forfeited for the use of the state. This subsection shall not  
25 apply when, during the course of the proceeding in which the conviction is  
26 obtained, the person from whom said money was unlawfully acquired is identified.

27 (3) Property forfeited under any section of this code shall be disposed of in accordance

1 with this section only after being advertised pursuant to KRS Chapter 424. This  
2 subsection shall not apply to property which is designed and suitable only for  
3 criminal use or to money forfeited under subsection (2) of this section.

4 (4) The trial court shall remit the forfeiture of property when the lawful claimant:

5 (a) Asserts his or her claim before disposition of the property pursuant to this  
6 section;

7 (b) Establishes his or her legal interest in the property; and

8 (c) Establishes that the unlawful use of the property was without his or her  
9 knowledge and consent. This subsection shall not apply to a lienholder of  
10 record when the trial court elects to dispose of the property pursuant to  
11 subsection (1)(b) of this section.

12 (5) For purposes of this section, "lawful claimant" means owner or lienholder of record.

13 (6) (a) Before property which has had its identity obscured in violation of KRS  
14 514.120 may be sold or retained for official use as provided in this section, the  
15 court shall cause a serial or other identifying number to be placed thereon, and  
16 a record of the number assigned shall be placed in the court order authorizing  
17 the sale or retention of the property. This number shall be assigned, whenever  
18 applicable, in consultation with the Department of Kentucky State Police and  
19 any other state or federal regulatory agency.

20 (b) The purchaser of the property shall be given a document stating that the  
21 property had been forfeited pursuant to law and that a number, shown on the  
22 document, has been assigned which shall be deemed as compliance of the  
23 owner with KRS 514.120. When property is returned to an owner pursuant to  
24 this section and its identity has been obscured by another person in violation  
25 of KRS 514.120, the court shall provide a document to the owner relieving  
26 him or her of liability for its continued possession. This document shall serve  
27 as evidence of compliance with KRS 514.120 by the owner or any person to



1           whom he or she lawfully disposes of the property.

2           (c) This section shall not apply to any person after property has been sold or  
3           returned in compliance with this section who violates the provisions of KRS  
4           514.120 with respect to that property.

5       (7) (a) Before forfeiture of any property under this section, it shall be the duty of the  
6           trial court to determine if a lawful owner or claimant to the property has been  
7           identified or is identifiable. If a lawful owner or claimant has been identified  
8           or is identifiable, the court shall notify the owner or claimant that the property  
9           is being held and specify a reasonable period of time during which the claim  
10          may be made or may, in lieu thereof, order the return of the property to the  
11          lawful owner or claimant.

12          (b) If the lawful owner or claimant does not assert his or her claim to the property  
13          after notification or if he or she renounces his or her claim to the property, the  
14          property shall be disposed of as provided in this section.

15          (c) It shall be the duty of all peace officers and other public officers or officials  
16          having knowledge of the lawful owner or claimant of property subject to  
17          forfeiture to report the same to the trial court before the act of forfeiture  
18          occurs.

19          ➔Section 5. KRS 500.093 is amended to read as follows:

20          No court or law enforcement agency shall retain a firearm or ammunition for official use  
21          for the purpose of avoiding transfer of the firearm or ammunition to the Department of  
22          Kentucky State Police under KRS 237.090 or 500.090, or other statute to avoid its being  
23          destroyed~~[sold]~~ pursuant to KRS 16.220.