

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 712  
PROPOSED COMMITTEE SUBSTITUTE H712-PCS30450-BQ-22

Short Title: Disposition of Unclaimed or Seized Firearms.

(Public)

Sponsors:

Referred to:

April 15, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE THE COURT TO ORDER THE DESTRUCTION OF A FIREARM  
3 IF THE COURT DETERMINES IT IS IN THE BEST INTEREST OF PUBLIC SAFETY  
4 AND TO AUTHORIZE A LAW ENFORCEMENT AGENCY TO CONSIGN A SEIZED  
5 OR UNCLAIMED FIREARM TO A FEDERALLY LICENSED FIREARM DEALER FOR  
6 SALE OR TO ALLOW DESTRUCTION OF THE FIREARM IF IT IS UNABLE TO BE  
7 SOLD.

8 The General Assembly of North Carolina enacts:

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

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

- 17 ...
- 18 (3) ~~By~~ Except as otherwise provided in this subsection, by ordering the firearm  
19 turned over to be destroyed by the sheriff of the county in which the firearm  
20 was seized or by his duly authorized agent ~~if the firearm~~ if any of the following  
21 are met:
- 22 a. The firearm does not have a legible, unique identification ~~number or~~  
23 number.
- 24 b. The firearm is unsafe for use because of wear, damage, age, or  
25 modification.
- 26 c. The court determines it is in the best interest of public safety that the  
27 firearm not be returned to the defendant or anyone with an ownership  
28 or possessory interest in the firearm.

29 The sheriff shall maintain a record of the destruction of the firearm. The  
30 authority to destroy a firearm set forth in this subdivision does not apply to an  
31 antique firearm, as that term is defined in G.S. 14-409.11.

- 32 (4) By ordering the firearm turned over to a law enforcement agency in the county  
33 of trial ~~for (i)~~ for one of the following dispositions:
- 34 a. ~~the~~ The official use of the agency or (ii) agency.



\* H 7 1 2 - P C S 3 0 4 5 0 - B Q - 2 2 \*

- 1            b. The sale, trade, or exchange by the agency to a federally licensed  
 2            firearm dealer in accordance with all applicable State and federal  
 3            firearm laws.
- 4            c. If the firearm cannot be used, sold, traded, or exchanged pursuant to  
 5            sub-subdivision a. or b. of this subdivision, the consignment by the  
 6            agency to a federally licensed firearm dealer for sale at a reserve of  
 7            one hundred fifty dollars (\$150.00) in accordance with all applicable  
 8            State and federal firearm laws. If (i) the agency is unable to arrange  
 9            consignment after a reasonable effort, (ii) the firearm is consigned with  
 10           a federally licensed firearm dealer for six months without being sold,  
 11           or (iii) the firearm is consigned to a federally licensed firearm dealer  
 12           and the dealer determines before six months has passed that the dealer  
 13           is unable to sell the firearm, the firearm may be destroyed. A federally  
 14           licensed firearm dealer may retain a reasonable fee from the sale of a  
 15           firearm on consignment pursuant to this sub-subdivision.

16           The court may order a disposition of the firearm pursuant to this subdivision  
 17           only if the firearm has a legible, unique identification number. If the law  
 18           enforcement agency sells the firearm, or the firearm is sold by consignment,  
 19           then the proceeds of the sale shall be remitted to the appropriate county  
 20           finance officer as provided by G.S. 115C-452 to be used to maintain free  
 21           public schools. The receiving law enforcement agency shall maintain a record  
 22           and inventory of all firearms received pursuant to this ~~subdivision~~-subdivision  
 23           and shall specify which firearms have been destroyed. The authority to destroy  
 24           a firearm set forth in this subdivision does not apply to an antique firearm, as  
 25           that term is defined in G.S. 14-409.11.

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

29           **SECTION 2.** G.S. 15-11.2(d) reads as rewritten:

30           "(d) Disposition of Unclaimed Firearm. – If the firearm remains unclaimed for a period of  
 31           30 days after the publication of the notice, then the head or chief of the law enforcement agency  
 32           shall order the disposition of the firearm in one of the following ways:

- 33           (1) ~~By~~ Except as otherwise provided in this subsection, by having the firearm  
 34           destroyed if the firearm does not have a legible, unique identification number  
 35           or is unsafe for use because of wear, damage, age, or modification and will  
 36           not be disposed of pursuant to subdivision (3) of this subsection. The head or  
 37           chief of the law enforcement agency shall maintain a record of the destruction  
 38           of the firearm. The authority to destroy a firearm set forth in this subdivision  
 39           does not apply to an antique firearm, as that term is defined in G.S. 14-409.11.
- 40           (2) ~~By sale,~~ one of the following methods:
- 41           a. Sale, trade, or exchange by the agency to a federally licensed firearm  
 42           dealer in accordance with all applicable State and federal firearm laws  
 43           or by sale of the firearm at a public auction to persons licensed as  
 44           firearms collectors, dealers, importers, or manufacturers.
- 45           b. If the firearm cannot be used, sold, traded, or exchanged pursuant to  
 46           sub-subdivision a. of this subdivision, the consignment by the agency  
 47           to a federally licensed firearm dealer for sale at a reserve of one  
 48           hundred fifty dollars (\$150.00) in accordance with all applicable State  
 49           and federal firearm laws. If (i) the agency is unable to arrange  
 50           consignment after a reasonable effort, (ii) the firearm is consigned with  
 51           a federally licensed firearm dealer for six months without being sold,

1                                    or (iii) the firearm is consigned to a federally licensed firearm dealer  
2                                    and the dealer determines before six months has passed that the dealer  
3                                    is unable to sell the firearm, the firearm may be destroyed. A federally  
4                                    licensed firearm dealer may retain a reasonable fee from the sale of a  
5                                    firearm on consignment pursuant to this sub-subdivision.

6                                    The head or chief of the law enforcement agency shall dispose of the firearm  
7                                    pursuant to this subdivision only if the firearm has a legible, unique  
8                                    identification number.

9                                    (3) By maintaining the firearm for training or experimental purposes or  
10                                    transferring the firearm to a museum or historical society."

11                                    **SECTION 3.** This act becomes effective July 1, 2019, and applies to any firearm  
12 seized, found, or otherwise received by a law enforcement agency on or after that date.