

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 419
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40172-ML-52B

Short Title: Disposition of Unclaimed or Seized Firearms. (Public)

Sponsors: Representatives Faircloth, McNeill, C. Smith, and Greene (Primary Sponsors).

Referred to:

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) the~~ for one of the following dispositions:
- 34 a. The official use of the ~~agency or (ii) agency.~~



- 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, consign to a federally
 6 licensed firearm dealer for sale at a reserve of one hundred fifty dollars
 7 (\$150.00) in accordance with all applicable State and federal firearm
 8 laws. If (i) the agency is unable to arrange consignment after a
 9 reasonable effort, (ii) the firearm is consigned with a federally licensed
 10 firearm dealer for six months without being sold, or (iii) the firearm is
 11 consigned to a federally licensed firearm dealer and the dealer
 12 determines before six months has passed that the dealer is unable to
 13 sell the firearm, the firearm may be destroyed. A federally licensed
 14 firearm dealer may retain a reasonable fee from the sale of a firearm
 15 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, consign to a federally licensed
 47 firearm dealer for sale at a reserve of one hundred fifty dollars
 48 (\$150.00) in accordance with all applicable State and federal firearm
 49 laws. If (i) the agency is unable to arrange consignment after a
 50 reasonable effort, (ii) the firearm is consigned with a federally licensed
 51 firearm dealer for six months without being sold, or (iii) the firearm is

1 consigned to a federally licensed firearm dealer and the dealer
2 determines before six months has passed that the dealer is unable to
3 sell the firearm, the firearm may be destroyed. A federally licensed
4 firearm dealer may retain a reasonable fee from the sale of a firearm
5 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, 2021, and applies to any firearm
12 seized, found, or otherwise received by a law enforcement agency on or after that date.