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MEMORANDUM

To: Rep. William Lippert, Chair, House Committee on Judiciary

From: Rep. Janet Ancel, Chair, House Committee on Ways and Means
Rep. Carolyn Branagan, Vice-Chair, House Committee on Ways and Means

Date: January 16, 2014

Subject: Review of Administration's Proposed FY 2015 Fee Bill

The House Ways and Means Committee has begun work on the Administration's proposed FY 2015 Fee Bill and would like the Committee on Judiciary to review Section 22, which relates to establishing a fee for the storage of unlawful firearms under 20 V.S.A. The fees collected by authorized law enforcement officers and firearms dealers for firearm storage would be used to repay loans made by the Department of Public Safety for the purpose of building secure storage spaces.

It would be helpful if you could respond with any recommendations by the end of the day on January 22nd. Thank you in advance for your consideration.

* * * Department of Public Safety * * *

Sec. 21. 20 V.S.A. chapter 145 is redesignated to read:

CHAPTER 145. DISPOSITION AND FEE FOR STORAGE OF UNLAWFUL FIREARMS

Sec. 22. 20 V.S.A. § 2307 is added to read:

§ 2307. FIREARMS SURRENDERED PURSUANT TO RELIEF FROM ABUSE ORDER; STORAGE; FEES; RETURN

(a)(1) A person who is required to surrender firearms, ammunition, or other weapons by a court order issued under 15 V.S.A. chapter 21 (abuse prevention), or any other provision of law consistent with 18 U.S.C. § 922(g)(8) shall upon service of the order immediately surrender to a law enforcement officer or court-approved federally licensed firearms dealer any firearms, ammunition, or weapons in the person's possession, custody, or control.

(2) The Department of Public Safety shall maintain a list of federally licensed firearms dealers who annually certify compliance with the standards and guidelines established by the Department pursuant to subdivision (f) of this section.

(b) A law enforcement officer or a court-approved federally licensed firearms dealer who takes possession of a firearm, ammunition, or other weapon pursuant to subsection (a) of this section shall photograph, catalogue, and store the item in accordance with standards and guidelines established by the Department of Public Safety pursuant

to subdivision (f)(1) of this section. A firearm, ammunition, or other weapon shall not be taken into possession pursuant to this section if it is being or may be used as evidence in a pending criminal matter.

(c)(1) A law enforcement officer or a court-approved federally licensed firearms dealer who stores firearms, ammunition, or weapons pursuant to subsection (b) of this section may charge the owner a reasonable storage fee. The fee shall not exceed the fees established by the Department of Public Safety under subdivision (f)(1) of this section.

(2) A fee shall not be charged under this section for transport or storage of any firearm, ammunition, or other weapon used as evidence in a criminal matter.

(3)(A) If the owner fails to pay the applicable storage fee for 90 days, the firearm, ammunition, or weapon may be sold at public auction. Title to the item shall pass to the law enforcement officer or firearms dealer for the purpose of transferring ownership to the auctioneer.

(B) Proceeds from the sale of a firearm, ammunition, or weapon pursuant to subdivision (A) of this subdivision (3) shall be apportioned as follows:

(i) Unpaid storage fees shall be paid to the law enforcement officer or firearms dealer who incurred the cost.

(ii) Any proceeds remaining after payment is made to the law enforcement officer or firearms dealer pursuant to subdivision (i) of this subdivision (B) shall be paid to the owner.

(d)(1) A law enforcement officer or a court-approved federally licensed firearms dealer shall be immune from civil or criminal liability for any damage or deterioration of firearms, ammunition, or weapons stored or transported pursuant to subsection (b) of this section.

(2) Subdivision (d)(1) of this subsection shall not apply if the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law enforcement officer or firearms dealer.

(e) A law enforcement officer or court approved federally licensed firearms dealer who takes possession of firearms, ammunition, or weapons for storage purposes pursuant to this section shall not release the item without a court order unless the item is to be sold at public auction pursuant to subdivision (c)(3) of this section. If a court orders the release of firearms, ammunition, or weapons stored under this section the law enforcement officer or firearms dealer in possession of the item shall release it to the owner within three business days of the order and in a manner consistent with federal law. The Supreme Court may promulgate rules under 12 V.S.A. § 1 for judicial proceedings under this subsection.

(f) The Department of Public Safety shall establish:

(1) fees, standards and guidelines for the transportation and storage of firearms, ammunition, and other weapons by law enforcement officers and court-approved federally licensed firearms dealers under this section; and

(2) standards and guidelines for the listing of federally licensed firearms dealers who annually certify compliance with the Department's standards to receive firearms, ammunition, or other weapons pursuant to subdivision (a)(2) of this section.

(g) As used in this section:

(1) "Federally licensed firearms dealer" means a licensed importer, licensed manufacturer, or licensed dealer required to conduct national instant criminal background checks under 18 U.S.C. § 922(t).

(2) "Law enforcement officer" means a State Police officer, municipal police officer, sheriff, or deputy sheriff certified by the Vermont Criminal Justice Training Council as having satisfactorily completed the approved training programs required to meet the minimum training standards applicable to that person under section 2358 of this title.

(3) "Person" means anyone who meets the definition of "intimate partner" under 18 U.S.C. § 921(a)(32) or who qualifies as a family or household member under 15 V.S.A. § 1101.