

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 55
3 entitled “An act relating to territorial jurisdiction over regulated drug sales”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

7 Sec. 1. 20 V.S.A. § 2301 is amended to read:

8 § 2301. APPLICABILITY OF CHAPTER

9 Notwithstanding any other provisions of law relating to the retention and
10 disposition of evidence or lost, unclaimed, or abandoned property, the
11 provisions of this chapter shall govern the retention or disposition, or both, of
12 unlawful firearms, ~~as defined in section 2302 of this title,~~ in the possession of
13 any agency, ~~as defined in section 2302~~ and the disposition of abandoned
14 firearms in the possession of the Department of Public Safety.

15 Sec. 2. 20 V.S.A. § 2302 is amended to read:

16 § 2302. UNLAWFUL FIREARMS; AGENCY

17 ~~(a) For purposes of~~ As used in this chapter,:

18 (1) ~~“unlawful~~ Unlawful firearms” means firearms the possession of
19 which constitutes a violation of federal or ~~state~~ State law and firearms carried
20 or used in violation of any federal or ~~state~~ State law or in the commission of
21 any federal or ~~state~~ State felony.

1 ~~(b) For purposes of this chapter, “agency”~~ (2) “Agency” means any state
2 State or local law enforcement agency, any state agency except the Vermont
3 ~~fish and wildlife department~~ Department of Fish and Wildlife, and any local
4 government entity.

5 (3) “Unlawful per se” means firearms the possession of which is
6 unlawful under any circumstances under State or federal law.

7 (4) “Abandoned firearms” means firearms in the possession of the
8 Department of Public Safety that are no longer needed as evidence and remain
9 unclaimed for more than 18 months from the date the firearms come into the
10 Department’s possession.

11 Sec. 3. 20 V.S.A. § 2305 is amended to read:

12 § 2305. DISPOSITION OF UNLAWFUL FIREARMS

13 (a) Any ~~unlawful firearm which the commissioner of public safety~~
14 ~~determines to be unsafe~~ or the possession of which is unlawful per se shall
15 either be destroyed, or if the ~~commissioner of public safety~~ Commissioner of
16 Public Safety deems ~~such to be~~ it appropriate, retained by the ~~department of~~
17 ~~public safety~~ Department of Public Safety for purposes of forensic science
18 reference. In no event shall the ~~commissioner of public safety~~ Commissioner
19 of Public Safety dispose of such ~~an unlawful~~ a firearm in any other manner or
20 to any other person.

1 (b)(1) Except as provided in section 2306 of this title, all ~~other~~ unlawful
2 and abandoned firearms shall either be:

3 (A) delivered to the ~~state treasurer~~ Commissioner of Buildings and
4 General Services as directed by him or her for ~~disposition by public sale~~
5 pursuant to the ~~provisions of chapter 13 of Title 27, or by such other manner of~~
6 ~~sale deemed appropriate by the state treasurer, or~~ sale to a federally licensed
7 firearms dealer pursuant to the Commissioner's authority under Title 29;

8 (B) at the discretion of the ~~state treasurer~~ Commissioner of Buildings
9 and General Services, ~~donated to a governmental agency or to a nonprofit~~
10 ~~organization upon the recommendation of the commissioner of fish and~~
11 ~~wildlife,~~ transferred to the Commissioner of Fish and Wildlife for
12 disposition; or;

13 (C) if the ~~commissioner of public safety~~ Commissioner of Public
14 Safety deems ~~such to be~~ it appropriate, retained by the ~~department of public~~
15 ~~safety~~ Department of Public Safety for purposes of forensic science reference.

16 (2) Notwithstanding ~~the foregoing provision~~ subdivision (1) of this
17 subsection, an unlawful firearm used in the commission of a homicide shall not
18 be delivered to the ~~state treasurer~~ Commissioner of Buildings and General
19 Services ~~for disposition by public sale~~, but shall be disposed of only in
20 accordance with:

1 (A) the provisions of subsection (a) of this section in the same
2 manner as unlawful per se firearms; or

3 (B) section 2306 of this title.

4 (c) When the firearms sold under this section have been delivered ~~to the~~
5 ~~commissioner of public safety~~ by a local law enforcement agency, the ~~state~~
6 ~~treasurer~~ Commissioner of Buildings and General Services shall return two-
7 thirds of the net proceeds from the sale to the appropriate municipality. The
8 remaining proceeds shall be allocated pursuant to the authority of the
9 Commissioner of Buildings and General Services under 27 V.S.A. § 1557.

10 (d) No State agency or department or State official shall be subject to any
11 civil, criminal, administrative, or regulatory liability for any act taken or
12 omission made in reliance on the provisions of this chapter.

13 Sec. 4. 20 V.S.A. § 2306 is amended to read:

14 § 2306. RIGHTS OF INNOCENT OWNER

15 Nothing contained in subsection 2305(b) of this title shall prejudice the
16 rights of the bona fide owner of any unlawful firearm, the disposition of which
17 is governed by that subsection, upon affirmative proof by him or her that he or
18 she had no express or implied knowledge that such unlawful firearm was being
19 or intended to be used illegally or for illegal purposes. If the bona fide owner
20 provides reasonable and satisfactory proof of his or her ownership and of his or
21 her lack of express or implied knowledge to the ~~commissioner of public safety~~

1 Commissioner of Public Safety, the unlawful firearm shall be returned to him
2 or her. If the ~~commissioner of public safety~~ Commissioner of Public Safety
3 determines that the proof offered is not satisfactory or reasonable, the person
4 may, within 14 days, request a hearing before the ~~state treasurer~~ Commissioner
5 of Buildings and General Services and the ~~commissioner of public safety~~
6 Commissioner of Public Safety, jointly. The ~~state treasurer~~ Commissioner of
7 Buildings and General Services and the ~~commissioner of public safety~~
8 Commissioner of Public Safety shall promptly hold a hearing on any claim
9 filed under this section, in accordance with the provisions for contested cases
10 in 3 V.S.A. chapter 25 ~~of Title 3~~.

11 Sec. 5. 20 V.S.A. § 2307 is amended to read:

12 § 2307. FIREARMS RELINQUISHED PURSUANT TO RELIEF FROM
13 ABUSE ORDER; STORAGE; FEES; RETURN

14 * * *

15 (2)(A)(i) If the owner fails to retrieve the firearm, ammunition, or
16 weapon and pay the applicable storage fee within 90 days of the court order
17 releasing the items, the firearm, ammunition, or weapon may be sold for fair
18 market value. Title to the items shall pass to the law enforcement agency or
19 firearms dealer for the purpose of transferring ownership, except that the
20 Vermont State Police shall follow the procedure described in section 2305 of
21 this title.

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Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to the disposition of unlawful firearms”

(Committee vote: _____)

Senator _____

FOR THE COMMITTEE