

1 AN ACT relating to 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 to
5 KRS 500.090, all firearms confiscated by the Department of Kentucky State Police
6 and not retained for official use pursuant to KRS 500.090 shall be ***destroyed***~~[sold at
7 public auction to federally licensed firearms dealers holding a license appropriate
8 for the type of firearm sold. Any provision of KRS Chapter 45 or 45A relating to
9 disposition of property to the contrary notwithstanding, the Department of
10 Kentucky State Police shall:~~
- 11 ~~(a) Conduct any auction specified by this section;~~
 - 12 ~~(b) Retain for departmental use twenty percent (20%) of the gross proceeds from
13 any auction specified by this section; and~~
 - 14 ~~(c) Transfer remaining proceeds of the sale to the account of the Kentucky Office
15 of Homeland Security for use as provided in subsection (4) of this section].~~
- 16 (2) Prior to the ***destruction***~~[sale]~~ of any firearm, the Department of Kentucky State
17 Police shall make an attempt to determine if the firearm to be ***destroyed***~~[sold]~~ has
18 been stolen or otherwise unlawfully obtained from an innocent owner and return the
19 firearm to its lawful innocent owner, unless that person is ineligible to purchase a
20 firearm under federal law.
- 21 (3) The Department of Kentucky State Police shall receive firearms and ammunition
22 confiscated by or abandoned to every law enforcement agency in Kentucky. The
23 department shall dispose of the firearms received in the manner specified in
24 subsection (1) of this section. ~~[However, firearms which are not retained for official
25 use, returned to an innocent lawful owner, or transferred to another government
26 agency or public museum shall be sold as provided in subsections (1) and (3) of this
27 section.~~

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

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

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

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

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

13 ~~— In awarding grants under this section, the Kentucky Office of Homeland Security~~
14 ~~shall give first priority to providing and replacing body armor and second priority to~~
15 ~~providing firearms and ammunition, with residual funds available for the purchase~~
16 ~~of body worn cameras, electronic control devices, electronic control weapons, or~~
17 ~~electro-muscular disruption technology. Body armor purchased by the department~~
18 ~~receiving grant funds shall meet or exceed the standards issued by the National~~
19 ~~Institute of Justice for body armor. No police or sheriff's department shall apply for~~
20 ~~a grant to replace existing body armor unless that body armor has been in actual use~~
21 ~~for a period of five (5) years or longer. Any department applying for grant funds for~~
22 ~~body worn cameras shall develop a policy for their use and shall submit that policy~~
23 ~~with its application for the grant funds to the Office of Homeland Security as part of~~
24 ~~the application process.~~

25 ~~(5) The Department of Kentucky State Police may transfer a machine gun, short-~~
26 ~~barreled shotgun, short barreled rifle, silencer, pistol with a shoulder stock, any~~
27 ~~other weapon, or destructive device as defined by the National Firearms Act which~~

1 ~~is subject to registration under the National Firearms Act and is not properly~~
2 ~~registered in the national firearms transfer records for those types of weapons, to the~~
3 ~~Bureau of Alcohol, Tobacco, and Firearms of the United States Department of~~
4 ~~Justice, after a reasonable attempt has been made to transfer the firearm to an~~
5 ~~eligible state or local law enforcement agency or to an eligible museum and no~~
6 ~~eligible recipient will take the firearm or weapon. National Firearms Act firearms~~
7 ~~and weapons which are properly registered and not returned to an innocent lawful~~
8 ~~owner or retained for official use as provided in this section shall be sold to~~
9 ~~properly licensed dealers under subsection (3) of this section.]~~

10 ➔Section 2. KRS 500.090 is amended to read as follows:

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

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

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

- 22 1. The state, if the property was seized by an agency of the state or peace
23 officer thereof;
- 24 2. The county, if the property was seized by the sheriff or an agency or
25 peace officer of the county;
- 26 3. The Department of Fish and Wildlife Resources, if the property was
27 seized by a peace officer of the Department of Fish and Wildlife or was

- 1 seized by any other officer for violation of KRS Chapter 150;
- 2 4. The city, if the property was seized by the city or by an agency or peace
3 officer thereof and the property was delivered to the city property clerk;
- 4 5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten
5 percent (10%) of the proceeds), if the property was seized by the city or
6 by an agency or peace officer thereof and the property was delivered to
7 the sheriff or the county police; or
- 8 6. The state, if the property was seized by any combination of agencies
9 listed above.

10 (c) Subject to the duty to return confiscated firearms and ammunition to innocent
11 owners pursuant to this section, all firearms and ammunition confiscated by a
12 state or local law enforcement agency, all firearms ordered forfeited by a
13 court, and all abandoned firearms and ammunition coming into the custody of
14 a state or local law enforcement agency and not retained for official use shall
15 be transferred to the Department of Kentucky State Police for disposition as
16 provided by KRS 16.220. The transfer shall occur not more than ninety (90)
17 days after the abandonment of the firearm or ammunition to the law
18 enforcement agency or not more than ninety (90) days after its confiscation,
19 unless a court requires the firearm or ammunition for use as evidence, in
20 which 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 court
22 or after the court returns the firearm or ammunition from use as evidence.
23 ~~[Prior to the sale of any firearm or ammunition, the law enforcement agency~~
24 ~~shall make a bona fide attempt to determine if the firearm or ammunition to be~~
25 ~~sold has been stolen or otherwise unlawfully obtained from an innocent owner~~
26 ~~and return the firearm and ammunition to its lawful innocent owner, unless~~
27 ~~that person is ineligible to purchase a firearm under federal law.]~~This

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

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

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

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

25 (3) Property forfeited under any section of this code shall be disposed of in accordance
26 with this section only after being advertised pursuant to KRS Chapter 424. This
27 subsection shall not apply to property which is designed and suitable only for

1 criminal use or to money forfeited under subsection (2) of this section.

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

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

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

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

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

11 (6) Before property which has had its identity obscured in violation of KRS 514.120
12 may be sold or retained for official use as provided in this section, the court shall
13 cause a serial or other identifying number to be placed thereon, and a record of the
14 number assigned shall be placed in the court order authorizing the sale or retention
15 of the property. This number shall be assigned, whenever applicable, in consultation
16 with the Department of Kentucky State Police and any other state or federal
17 regulatory agency. The purchaser of the property shall be given a document stating
18 that the property had been forfeited pursuant to law and that a number, shown on
19 the document, has been assigned which shall be deemed as compliance of the owner
20 with KRS 514.120. When property is returned to an owner pursuant to this section
21 and its identity has been obscured by another person in violation of KRS 514.120,
22 the court shall provide a document to the owner relieving him or her of liability for
23 its continued possession. This document shall serve as evidence of compliance with
24 KRS 514.120 by the owner or any person to whom he or she lawfully disposes of
25 the property. This section shall not apply to any person after property has been sold
26 or returned in compliance with this section who violates the provisions of KRS
27 514.120 with respect to that property.

1 (7) Before forfeiture of any property under this section, it shall be the duty of the trial
 2 court to determine if a lawful owner or claimant to the property has been identified
 3 or is identifiable. If a lawful owner or claimant has been identified or is identifiable,
 4 the court shall notify the owner or claimant that the property is being held and
 5 specify a reasonable period of time during which the claim may be made or may, in
 6 lieu thereof, order the return of the property to the lawful owner or claimant. If the
 7 lawful owner or claimant does not assert his or her claim to the property after
 8 notification or if he or she renounces his or her claim to the property, the property
 9 shall be disposed of as provided in this section. It shall be the duty of all peace
 10 officers and other public officers or officials having knowledge of the lawful owner
 11 or claimant of property subject to forfeiture to report the same to the trial court
 12 before the act of forfeiture occurs.

13 ➔Section 3. KRS 45.777 is amended to read as follows:

14 (1) The proceeds from the sale of major items of equipment or real property, purchased
 15 in whole or in part with capital construction funds, shall be deposited into the
 16 general fund unless federal funding restraints require otherwise.

17 (2) The provisions of this section shall not apply to:

18 (a) The sale of real property held as right-of-way; or

19 (b) The sale of equipment by the Transportation Cabinet; ~~or~~

20 (c) ~~The sale of confiscated firearms.~~

21 ➔Section 4. KRS 500.093 is amended to read as follows:

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

26 ➔Section 5. KRS 147A.002 is amended to read as follows:

27 (1) The Department for Local Government shall be headed by a commissioner and

1 shall consist of the:

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

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