

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) **(a)** Subject to the duty to return confiscated firearms to innocent owners pursuant  
5 to KRS 500.090, all firearms confiscated by the Department of Kentucky  
6 State Police and not retained for official use pursuant to KRS 500.090  
7 ~~may~~~~shall~~ be **destroyed or** sold at public auction to federally licensed  
8 firearms dealers holding a license appropriate for the type of firearm sold, **but**  
9 **if the firearm was used in the commission of an offense that would classify**  
10 **a person as a violent offender under KRS 439.3401, then the firearm shall**  
11 **be destroyed.**

12 **(b)** Any provision of KRS Chapter 45 or 45A relating to disposition of property  
13 to the contrary notwithstanding, the Department of Kentucky State Police  
14 shall:

15 ~~1.~~~~(a)~~ Conduct any auction specified by this section;

16 ~~2.~~~~(b)~~ Retain for departmental use twenty percent (20%) of the gross  
17 proceeds from any auction specified by this section; and

18 ~~3.~~~~(c)~~ Transfer remaining proceeds of the sale to the account of the  
19 Kentucky Office of Homeland Security for use as provided in subsection  
20 (4) of this section.

21 (2) Prior to the **destruction or** sale of any firearm, the Department of Kentucky State  
22 Police shall make an attempt to determine if the firearm to be **destroyed or** sold has  
23 been stolen or otherwise unlawfully obtained from an innocent owner and return the  
24 firearm to its lawful innocent owner, unless that person is ineligible to purchase a  
25 firearm under federal law.

26 (3) The Department of Kentucky State Police shall receive firearms and ammunition  
27 confiscated by or abandoned to every law enforcement agency in Kentucky. The

1 department shall dispose of the firearms received in the manner specified in  
2 subsection (1) of this section. However, firearms ~~that~~<sup>which</sup> are not retained for  
3 official use, returned to an innocent lawful owner, **destroyed**, or transferred to  
4 another government agency or public museum shall be sold as provided in  
5 subsections (1) and ~~(4)~~<sup>(3)</sup> of this section.

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

13 ~~1.~~<sup>(a)</sup> Body armor for sworn peace officers of those departments and  
14 service animals, as defined in KRS 525.010, of those departments;

15 ~~2.~~<sup>(b)</sup> Firearms or ammunition;

16 ~~3.~~<sup>(c)</sup> Electronic control devices, electronic control weapons, or electro-  
17 muscular disruption technology; and

18 ~~4.~~<sup>(d)</sup> Body-worn cameras.

19 **(b)** In awarding grants under this section, the Kentucky Office of Homeland  
20 Security shall give first priority to providing and replacing body armor and  
21 second priority to providing firearms and ammunition, with residual funds  
22 available for the purchase of body-worn cameras, electronic control devices,  
23 electronic control weapons, or electro-muscular disruption technology. Body  
24 armor purchased by the department receiving grant funds shall meet or exceed  
25 the standards issued by the National Institute of Justice for body armor. No  
26 police or sheriff's department shall apply for a grant to replace existing body  
27 armor unless that body armor has been in actual use for a period of five (5)

1           years or longer. Any department applying for grant funds for body-worn  
2           cameras shall develop a policy for their use and shall submit that policy with  
3           its application for the grant funds to the Office of Homeland Security as part  
4           of the application process.

5       (5) The Department of Kentucky State Police may transfer a machine gun, short-  
6       barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any  
7       other weapon, or destructive device as defined by the National Firearms Act, 26  
8       *U.S.C. sec. 5801 et seq.*, which is subject to registration under the National  
9       Firearms Act and is not properly registered in the national firearms transfer records  
10      for those types of weapons, to the Bureau of Alcohol, Tobacco, ~~and~~ Firearms and  
11      *Explosives* of the United States Department of Justice, after a reasonable attempt  
12      has been made to transfer the firearm to an eligible state or local law enforcement  
13      agency or to an eligible museum and no eligible recipient will take the firearm or  
14      weapon. National Firearms Act firearms and weapons which are properly registered  
15      and not returned to an innocent lawful owner, destroyed, or retained for official use  
16      as provided in this section shall be sold to properly licensed dealers under  
17      subsection (3) of this section.

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

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

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

25      (b) Property other than firearms which is forfeited under any section of this code  
26      may, upon order of the trial court, be sold at public auction. The expenses of  
27      keeping and selling such property and the amount of all valid recorded liens

1 that are established by intervention as being bona fide shall be paid out of the  
2 proceeds of the sale. The balance shall be paid to:

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

18 (c) 1. Subject to the duty to return confiscated firearms and ammunition to  
19 innocent owners pursuant to this section, all firearms and ammunition  
20 confiscated by a state or local law enforcement agency, all firearms  
21 ordered forfeited by a court, and all abandoned firearms and ammunition  
22 coming into the custody of a state or local law enforcement agency and  
23 not retained for official use shall be transferred to the Department of  
24 Kentucky State Police for disposition as provided by KRS 16.220.

25 2. The transfer shall occur not more than ninety (90) days after the  
26 abandonment of the firearm or ammunition to the law enforcement  
27 agency or not more than ninety (90) days after its confiscation, unless a

1 court requires the firearm or ammunition for use as evidence, in which  
2 case it shall be transferred to the Department of Kentucky State Police  
3 not more than ninety (90) days following the order of forfeiture by the  
4 court or after the court returns the firearm or ammunition from use as  
5 evidence.

6 **3.** Prior to the **destruction or** sale of any firearm or ammunition, the law  
7 enforcement agency shall make a bona fide attempt to determine if the  
8 firearm or ammunition to be **destroyed or** sold has been stolen or  
9 otherwise unlawfully obtained from an innocent owner and return the  
10 firearm and ammunition to its lawful innocent owner, unless that person  
11 is ineligible to purchase a firearm under federal law.

12 **4.** This subsection relating to auction of firearms and ammunition shall not  
13 apply to firearms and ammunition auctioned by the Department of Fish  
14 and Wildlife that may be sold to individual purchasers residing in  
15 Kentucky who are eligible under federal law to purchase firearms and  
16 ammunition of the type auctioned.

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

23 (e) Property which is forfeited under any section of this code may, upon order of  
24 the trial court, be retained for official use in the following manner. Property  
25 which has been seized by an agency of the state may be retained for official  
26 state use. Property which has been seized by an agency of county, city,  
27 **charter county,**~~[or]~~ urban-county government, **consolidated local**

- 1           government, or unified local government may be retained for official use by  
2           the government whose agency seized the property or for official state use.  
3           Property seized by any other unit of government may be retained only for  
4           official state use. The expenses for keeping and transferring such property  
5           shall be paid by the unit of government by which the property is retained.
- 6       (2) Money which has been obtained or conferred in violation of any section of this code  
7           shall, upon conviction, be forfeited for the use of the state. This subsection shall not  
8           apply when, during the course of the proceeding in which the conviction is  
9           obtained, the person from whom said money was unlawfully acquired is identified.
- 10       (3) Property forfeited under any section of this code shall be disposed of in accordance  
11           with this section only after being advertised pursuant to KRS Chapter 424. This  
12           subsection shall not apply to property which is designed and suitable only for  
13           criminal use or to money forfeited under subsection (2) of this section.
- 14       (4) The trial court shall remit the forfeiture of property when the lawful claimant:
- 15           (a) Asserts his or her claim before disposition of the property pursuant to this  
16                section;
- 17           (b) Establishes his or her legal interest in the property; and
- 18           (c) Establishes that the unlawful use of the property was without his or her  
19                knowledge and consent. This subsection shall not apply to a lienholder of  
20                record when the trial court elects to dispose of the property pursuant to  
21                subsection (1)(b) of this section.
- 22       (5) For purposes of this section, "lawful claimant" means owner or lienholder of record.
- 23       (6) (a) Before property which has had its identity obscured in violation of KRS  
24                514.120 may be sold or retained for official use as provided in this section, the  
25                court shall cause a serial or other identifying number to be placed thereon, and  
26                a record of the number assigned shall be placed in the court order authorizing  
27                the sale or retention of the property. This number shall be assigned, whenever

1 applicable, in consultation with the Department of Kentucky State Police and  
2 any other state or federal regulatory agency.

3 (b) The purchaser of the property shall be given a document stating that the  
4 property had been forfeited pursuant to law and that a number, shown on the  
5 document, has been assigned which shall be deemed as compliance of the  
6 owner with KRS 514.120. When property is returned to an owner pursuant to  
7 this section and its identity has been obscured by another person in violation  
8 of KRS 514.120, the court shall provide a document to the owner relieving  
9 him or her of liability for its continued possession. This document shall serve  
10 as evidence of compliance with KRS 514.120 by the owner or any person to  
11 whom he or she lawfully disposes of the property.

12 (c) This section shall not apply to any person after property has been sold or  
13 returned in compliance with this section who violates the provisions of KRS  
14 514.120 with respect to that property.

15 (7) (a) Before forfeiture of any property under this section, it shall be the duty of the  
16 trial court to determine if a lawful owner or claimant to the property has been  
17 identified or is identifiable. If a lawful owner or claimant has been identified  
18 or is identifiable, the court shall notify the owner or claimant that the property  
19 is being held and specify a reasonable period of time during which the claim  
20 may be made or may, in lieu thereof, order the return of the property to the  
21 lawful owner or claimant.

22 (b) If the lawful owner or claimant does not assert his or her claim to the property  
23 after notification or if he or she renounces his or her claim to the property, the  
24 property shall be disposed of as provided in this section.

25 (c) It shall be the duty of all peace officers and other public officers or officials  
26 having knowledge of the lawful owner or claimant of property subject to  
27 forfeiture to report the same to the trial court before the act of forfeiture

1 occurs.

2 →Section 3. KRS 500.093 is amended to read as follows:

3 No court or law enforcement agency shall retain a firearm or ammunition for official use  
4 for the purpose of avoiding transfer of the firearm or ammunition to the Department of  
5 Kentucky State Police under KRS 237.090 or 500.090~~[,]~~ or other statute to avoid its  
6 being *destroyed or* sold pursuant to KRS 16.220.