WEST VIRGINIA CODE: §36-8A-5

§36-8A-5. Regarding the disposition of firearms in state custody.

(a) Except as provided in section three of this article, subject to the duty to return firearms to innocent owners pursuant to subsection (b) of this section, all firearms, as defined in section two, article seven, chapter sixty-one of this code, that are forfeited or abandoned to any law-enforcement agency of this state or a political subdivision of this state, including the West Virginia Division of Natural Resources, or that are otherwise acquired by the state or a political subdivision of the state and are no longer needed, shall be transferred to the State Treasurer for disposal as provided in this section.

(b) Except as provided in section three of this article, within thirty days of the receipt of an unclaimed stolen property report, the State Treasurer shall coordinate best efforts with the reporting law-enforcement agency to transfer the firearms and ammunition to the State Treasurer for disposal as provided in subsection (e).

(c) Prior to the disposal of any firearm that has been forfeited or abandoned to the state, the chief executive of each law-enforcement agency shall use best efforts to determine if the firearm has been lost by, stolen or otherwise unlawfully obtained from an innocent owner, and if so, shall return the firearm to its innocent owner, if ascertainable, unless that person is ineligible to receive or possess a firearm under state or federal law.

(d) Upon determination and verification that a lawful owner is unavailable or ineligible to receive or possess a firearm under state or federal law, reporting enforcement agencies may trade the firearms and ammunition to persons licensed as firearms collectors, dealers, importers or manufacturers under the provisions of 18 U. S. C. §§921 et seq. and authorized to receive firearms under the terms of their license, in exchange for new weapons or ammunition, or appropriate the firearms and ammunition for law-enforcement agency use.

(e) Except as provided in subsections (c),(d) and (f) of this section, the State Treasurer shall dispose of the firearms that it receives under subsection (a) by sale at public auction to persons licensed as firearms collectors, dealers, importers or manufacturers under the provisions of 18 U. S. C. §§921 et seq. and authorized to receive firearms under the terms of their license.

(1) The auctions required by this subsection may occur online on a rolling basis or at live events but in no event may occur less frequently than once every six months.

(2) The State Treasurer shall retain only the net proceeds necessary to cover the costs of administering this section, with any surplus to be transferred to the general fund of the state: Provided, That an agency may be reimbursed for any decommissioned firearms formerly in use by the agency that are sold under this section: Provided, however, That an agency may apply to the State Treasurer for payment of the net proceeds generated by the

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sale of any property by the State Treasurer pursuant to this section.

(3) Employees of the State Police or of the agency from which the firearms are received are not eligible to bid on the firearms at an auction conducted under this section.

(f) The requirements of subsection (d) do not apply to a firearm that the chief executive of the law-enforcement agency or his or her designee certifies is unsafe for use because of wear, damage, age or modification, and any such firearm shall at the discretion of the superintendent be transferred to the State Police forensic laboratory for training or experimental purposes or to a museum or historical society or be destroyed.

(g) The State Treasurer shall keep records of all firearms acquired and disposed of under the provisions of this section, as well as the net proceeds of the sales and the disbursement of such proceeds, and shall maintain these records for not less than ten years from the date on which a firearm is disposed of or on which a disbursement of funds is made, as the case may be.

(h) Any firearm or ammunition subject to forfeiture proceedings which is ordered returned to any law enforcement agency for the purposes of public sale or auction may only be sold or transferred to persons licensed as firearms collectors, dealers, importers or manufacturers under the provisions of 18 U. S. C. §§921 et seq.

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