

1 HB445
2 131740-2
3 By Representatives Galliher, Hill, Morrow, Ball, McClurkin,
4 Hurst, Johnson (R), Vance, Boothe, Chesteen, Williams (P),
5 Brown, Thomas, Oden, Merrill, Poole, Bridges, Laird, McClendon
6 and Davis
7 RFD: Public Safety and Homeland Security
8 First Read: 05-APR-11

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
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8 Relating to firearms; to require firearms seized by
9 any law enforcement agency in this state to be disposed of by
10 sale at a public auction; to provide procedures for the public
11 auction; to provide for disposition of the proceeds of the
12 sale; to provide exceptions; to provide limited immunity to
13 the state and its political subdivisions related to any
14 damages resulting from the sale of a firearm by the
15 department.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. (a) Notwithstanding Sections 13A-11-84
18 and 20-2-93, Code of Alabama 1975, or any other provision of
19 law, and subject to the duty to return firearms to innocent
20 owners pursuant to general law, all firearms, as defined in
21 Section 13A-8-1, Code of Alabama 1975, that are forfeited or
22 abandoned to any state, county, or municipal law enforcement
23 agency, or that are otherwise acquired by the state, county,
24 or municipality and are no longer needed for use by the law
25 enforcement agency shall be disposed of in accordance with
26 this act.

1 (b) Prior to the disposal of any firearm that has
2 been forfeited or abandoned, state, county, and municipal law
3 enforcement agencies shall use reasonable efforts to determine
4 if the firearm has been lost by an innocent owner or stolen or
5 otherwise unlawfully obtained from an innocent owner. If the
6 law enforcement agency determines that a firearm has been lost
7 by an innocent owner or stolen or otherwise unlawfully
8 obtained from an innocent owner, the agency shall return the
9 firearm to the owner, if ascertainable, unless that person is
10 ineligible to receive or possess a firearm under state or
11 federal law.

12 (c) Except as provided in subsections (b) and (d),
13 the state, county, and municipal law enforcement agencies
14 shall dispose of the firearms that they receive under
15 subsection (a) by sale at public auction or by direct sale to
16 persons licensed as firearms collectors, dealers, importers,
17 or manufacturers under the provisions of 18 U.S.C. §§ 921 et
18 seq., and authorized to receive firearms under the terms of
19 the license.

20 (1) The auctions required by this subsection may be
21 conducted online on a rolling basis or at live events, but no
22 sale event shall occur less frequently than once every three
23 months.

24 (2) The proceeds from the sale shall go into the
25 state, county, or municipal general fund and shall be
26 allocated solely for law enforcement purposes.

1 (3) Employees of the law enforcement agency from
2 which the firearms are received shall not be eligible to bid
3 on the firearms at an auction conducted under this section.

4 (d) The requirements of subsection (c) shall not
5 apply to a firearm that the law enforcement agency certifies
6 is unsafe for use because of wear, damage, age, or
7 modification, and any such firearm, at the discretion of the
8 agency, shall be transferred to the Department of Forensic
9 Sciences for training or experimental purposes, transferred to
10 a museum or historical society, or destroyed.

11 (e) Each law enforcement agency shall keep records
12 of all firearms acquired and disposed of under this section,
13 as well as the proceeds of the sales and disbursements of the
14 proceeds, and shall maintain these records for not less than
15 10 years from the date on which a firearm is disposed of or on
16 which a disbursement of funds is made.

17 (f) Neither the state nor any political subdivision
18 of the state, nor any of their officers, agents, and
19 employees, shall be liable to any person, including the
20 purchaser of a firearm, for personal injuries or damage to
21 property arising from the sale of a firearm under subsection
22 (c), unless the state or political subdivision, or its
23 officers, agents, or employees, acted with gross negligence or
24 recklessness.

25 Section 2. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Public Safety
and Homeland Security..... 05-APR-11

Read for the second time and placed
on the calendar with 1 substitute
and..... 21-APR-11

Read for the third time and passed
as amended..... 31-MAY-11

Yeas 96, Nays 0, Abstains 0

Greg Pappas
Clerk