ATTACHMENT A

**Title 20, Chapter 145: Disposition and Fee For Storage of Unlawful Firearms**

Link to the Full Chapter <https://legislature.vermont.gov/statutes/fullchapter/20/145>

## The Vermont Statutes Online

## [Title 20: Internal Security And Public Safety](https://legislature.vermont.gov/statutes/title/20)

### [Chapter 145: Disposition And Fee For Storage Of Unlawful Firearms](https://legislature.vermont.gov/statutes/chapter/20/145)

**§ 2301. Applicability of chapter**

Notwithstanding any other provisions of law relating to the retention and disposition of evidence or lost, unclaimed, or abandoned property, the provisions of this chapter shall govern the retention or disposition, or both, of unlawful firearms in the possession of any agency and the disposition of abandoned firearms in the possession of the Department of Public Safety. (Added 1983, No. 132 (Adj. Sess.), § 1; amended 2017, No. 94 (Adj. Sess.), § 1, eff. April 11, 2018.)

**§ 2302. Unlawful firearms; agency**

As used in this chapter:

(1) "Unlawful firearms" means firearms the possession of which constitutes a violation of federal or State law and firearms carried or used in violation of any federal or State law or in the commission of any federal or State felony.

(2) "Agency" means any State or local law enforcement agency, any State agency except the Vermont Department of Fish and Wildlife, and any local government entity.

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

(4) "Abandoned firearms" means firearms in the possession of the Department of Public Safety that are no longer needed as evidence and remain unclaimed for more than 18 months from the date the firearms come into the Department's possession. (Added 1983, No. 132 (Adj. Sess.), § 1; amended 2017, No. 94 (Adj. Sess.), § 2, eff. April 11, 2018.)

**§ 2303. Delivery to commissioner of public safety**

(a) Any unlawful firearm in the possession of an agency which is not needed as evidence for or in a criminal prosecution or other judicial or administrative proceeding shall, within 30 days of its receipt by the agency, be delivered to such place and in such manner as the commissioner of public safety designates for ultimate disposition in accordance with the provisions of this chapter.

(b) Any unlawful firearm in the possession of an agency needed as evidence for or in a criminal prosecution or other judicial or administrative proceeding may be retained by the agency for such purposes and until the conclusion of such prosecution or proceeding. Upon notice to the agency from a state's attorney, other prosecuting official, or other state or federal official having jurisdiction over the subject matter that the unlawful firearm may be released, the agency shall, within 30 days of such notification, deliver the unlawful firearm to such place and in such manner as the commissioner of public safety designates for ultimate disposition in accordance with the provisions of this chapter. (Added 1983, No. 132 (Adj. Sess.).)

**§ 2304. Repealed. 2003, No. 122 (Adj. Sess.), § 294v(8).**

**§ 2305. Disposition of unlawful firearms**

(a) Any firearm the possession of which is unlawful per se shall either be destroyed, or if the Commissioner of Public Safety deems it appropriate, retained by the Department of Public Safety for purposes of forensic science reference. In no event shall the Commissioner of Public Safety dispose of such a firearm in any other manner or to any other person.

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

(A) delivered to the Commissioner of Buildings and General Services as directed by him or her for sale to a federally licensed firearms dealer pursuant to the Commissioner's authority under Title 29;

(B) at the discretion of the Commissioner of Buildings and General Services, transferred to the Commissioner of Fish and Wildlife for disposition; or

(C) if the Commissioner of Public Safety deems it appropriate, retained by the Department of Public Safety for purposes of forensic science reference.

(2) Notwithstanding subdivision (1) of this subsection, an unlawful firearm used in the commission of a homicide shall not be delivered to the Commissioner of Buildings and General Services, but shall be disposed of only in accordance with:

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

(B) section 2306 of this title.

(c) When the firearms sold under this section have been delivered by a local law enforcement agency, the Commissioner of Buildings and General Services shall return two-thirds of the net proceeds from the sale to the appropriate municipality. The remaining proceeds shall be allocated pursuant to the authority of the Commissioner of Buildings and General Services under 29 V.S.A. § 1557. Proceeds allocated to a municipality under this subsection shall, to the extent needed by the municipality, be used to offset the costs of storing non-evidentiary firearms.

(d) No State agency or department or State official shall be subject to any civil, criminal, administrative, or regulatory liability for any act taken or omission made in reliance on the provisions of this chapter. (Added 1983, No. 132 (Adj. Sess.), § 1; amended 1995, No. 78 (Adj. Sess.), § 16; 2001, No. 80 (Adj. Sess.), § 2; 2017, No. 94 (Adj. Sess.), § 3, eff. April 11, 2018.)

**§ 2306. Rights of innocent owner**

Nothing contained in subsection 2305(b) of this title shall prejudice the rights of the bona fide owner of any unlawful firearm, the disposition of which is governed by that subsection, upon affirmative proof by him or her that he or she had no express or implied knowledge that such unlawful firearm was being or intended to be used illegally or for illegal purposes. If the bona fide owner provides reasonable and satisfactory proof of his or her ownership and of his or her lack of express or implied knowledge to the Commissioner of Public Safety, the unlawful firearm shall be returned to him or her. If the Commissioner of Public Safety determines that the proof offered is not satisfactory or reasonable, the person may, within 14 days, request a hearing before the Commissioner of Buildings and General Services and the Commissioner of Public Safety, jointly. The Commissioner of Buildings and General Services and the Commissioner of Public Safety shall promptly hold a hearing on any claim filed under this section, in accordance with the provisions for contested cases in 3 V.S.A. chapter 25. (Added 1983, No. 132 (Adj. Sess.), § 1; amended 2017, No. 94 (Adj. Sess.), § 4, eff. April 11, 2018.)

**§ 2307. Firearms relinquished pursuant to relief from abuse order; storage; fees; return**

(a) As used in this section:

(1) "Federally licensed firearms dealer" means a licensed importer, licensed manufacturer, or licensed dealer required to conduct national instant criminal background checks under 18 U.S.C. § 922(t).

(2) "Firearm" shall have the same meaning as in 18 U.S.C. § 921(a)(3).

(3) "Law enforcement agency" means the Vermont State Police, a municipal police department, or a sheriff's department.

(b)(1) A person who is required to relinquish firearms, ammunition, or other weapons in the person's possession by a court order issued under 15 V.S.A. chapter 21 (abuse prevention) or any other provision of law consistent with 18 U.S.C. § 922(g)(8) shall, unless the court orders an alternative relinquishment pursuant to subdivision (2) of this subsection, upon service of the order immediately relinquish the firearms, ammunition, or weapons to a cooperating law enforcement agency or an approved federally licensed firearms dealer. As used in this subdivision, "person" means anyone who meets the definition of "intimate partner" under 18 U.S.C. § 921(a)(32) or who qualifies as a family or household member under 15 V.S.A. § 1101.

(2)(A) The court may order that the person relinquish the firearms, ammunition, or other weapons to a person other than a cooperating law enforcement agency or an approved federally licensed firearms dealer unless the court finds that relinquishment to the other person will not adequately protect the safety of the victim.

(B) A person to whom firearms, ammunition, or other weapons are relinquished pursuant to subdivision (2)(A) of this subsection (b) shall execute an affidavit on a form approved by the Court Administrator stating that the person:

(i) acknowledges receipt of the firearms, ammunition, or other weapons;

(ii) assumes responsibility for storage of the firearms, ammunition, or other weapons until further order of the court, and specifies the manner in which he or she will provide secure storage of such items;

(iii) is not prohibited from owning or possessing firearms under State or federal law; and

(iv) understands the obligations and requirements of the court order, including the potential for the person to be subject to civil contempt proceedings pursuant to subdivision (2)(C) of this subsection (b) if the person permits the firearms, ammunition, or other weapons to be possessed, accessed, or used by the person who relinquished the item or by any other person not authorized by law to do so.

(C) A person to whom firearms, ammunition, or other weapons are relinquished pursuant to subdivision (2)(A) of this subsection (b) shall be subject to civil contempt proceedings under 12 V.S.A. chapter 5 if the person permits the firearms, ammunition, or other weapons to be possessed, accessed, or used by the person who relinquished the item or by any other person not authorized by law to do so. In the event that the person required to relinquish the firearms, ammunition, or other weapons or any other person not authorized by law to possess the relinquished items obtains access to, possession of, or use of a relinquished item, all relinquished items shall be immediately transferred to the possession of a law enforcement agency or approved federally licensed firearms dealer pursuant to subdivision (1) of this subsection (b).

(c) A law enforcement agency or an approved federally licensed firearms dealer that takes possession of a firearm, ammunition, or other weapon pursuant to subdivision (b)(1) of this section shall photograph, catalogue, and store the item in accordance with standards and guidelines established by the Department of Public Safety pursuant to subdivision (i)(3) of this section. A firearm, ammunition, or other weapon shall not be taken into possession pursuant to this section if it is being or may be used as evidence in a pending criminal matter.

(d) Fees.

(1) A law enforcement agency that stores firearms, ammunition, or weapons pursuant to subdivision (b)(1) of this section may charge the owner a reasonable storage fee, not to exceed:

(A) $200.00 for the first firearm or weapon, and $50.00 for each additional firearm or weapon for up to 15 months, prorated on the number of months the items are stored; and

(B) $50.00 per firearm or weapon per year for each year or part thereof thereafter.

(2) A federally licensed firearms dealer that stores firearms, ammunition, or weapons pursuant to subdivision (b)(1) of this section may charge the owner a storage fee that is reasonably related to the expenses it incurs in the administration of this section. Any federally licensed firearm dealer that certifies compliance under this section shall provide a copy of its fee schedule to the court.

(3) Fees permitted by this subsection shall not begin to accrue until after the court issues a final relief from abuse order pursuant to 15 V.S.A. § 1103.

(e) Nothing in this section shall be construed to prohibit the lawful sale of firearms or other items.

(f) A final relief from abuse order issued pursuant to 15 V.S.A. § 1103 requiring a person to relinquish firearms, ammunition, or other weapons shall direct the law enforcement agency, approved federally licensed firearms dealer, or other person in possession of the items under subsection (b) of this section to release them to the owner upon expiration of the order if all applicable fees have been paid.

(g)(1) A law enforcement agency, an approved federally licensed firearms dealer, or any other person that takes possession of firearms, ammunition, or weapons for storage purposes pursuant to this section shall not release the items to the owner without a court order unless the items are to be sold pursuant to subdivision (2)(A) of this subsection. If a court orders the release of firearms, ammunition, or weapons stored under this section, the law enforcement agency or firearms dealer in possession of the items shall make them available to the owner within three business days of receipt of the order and in a manner consistent with federal law. The Supreme Court may promulgate rules under 12 V.S.A. § 1 for judicial proceedings under this subsection.

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

(ii) The law enforcement agency or approved firearms dealer shall make a reasonable effort to notify the owner of the sale before it occurs. In no event shall the sale occur until after the court issues a final relief from abuse order pursuant to 15 V.S.A. § 1103.

(iii) As used in this subdivision (2)(A), "reasonable effort" shall mean notice shall be served as provided for by Rule 4 of the Vermont Rules of Civil Procedure.

(B) Proceeds from the sale of a firearm, ammunition, or weapon pursuant to subdivision (A) of this subdivision (2) shall be apportioned as follows:

(i) unpaid storage fees and associated costs, including the costs of sale and of locating and serving the owner, shall be paid to the law enforcement agency or firearms dealer that incurred the cost; and

(ii) any proceeds remaining after payment is made to the law enforcement agency or firearms dealer pursuant to subdivision (i) of this subdivision (2)(B) shall be paid to the original owner.

(h) A law enforcement agency shall be immune from civil or criminal liability for any damage or deterioration of firearms, ammunition, or weapons stored or transported pursuant to subsection (c) of this section. This subsection shall not apply if the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law enforcement agency.

(i) The Department of Public Safety shall be responsible for the implementation and establishment of standards and guidelines to carry out this section. To carry out this responsibility, the Department shall:

(1) Establish minimum standards to be a qualified storage location and maintain a list of qualified storage locations, including:

(A) federally licensed firearms dealers that annually certify compliance with the Department's standards to receive firearms, ammunition, or other weapons pursuant to subdivision (b)(2) of this section; and

(B) cooperating law enforcement agencies.

(2) Establish a fee schedule consistent with the fees established in this section for the storage of firearms and other weapons by law enforcement agencies pursuant to this section.

(3) Establish standards and guidelines to provide for the storage of firearms, ammunition, and other weapons pursuant to this section by law enforcement agencies. Such guidelines shall provide that:

(A) with the consent of the law enforcement agency taking possession of a firearm, ammunition, or weapon under this section, an owner may provide a storage container for the storage of such relinquished items;

(B) the law enforcement agency that takes possession of the firearm, ammunition, or weapon may provide a storage container for the relinquished item or items at an additional fee; and

(C) the law enforcement agency that takes possession of the firearm, ammunition, or weapon shall present the owner with a receipt at the time of relinquishment that includes the serial number and identifying characteristics of the firearm, ammunition, or weapon and record the receipt of the item or items in a log to be established by the Department.

(4) Report on January 15, 2015 and annually thereafter to the House and Senate Committees on Judiciary on the status of the program. The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to the report to be made under this subdivision. (Added 2013, No. 191 (Adj. Sess.), § 20; amended 2015, No. 14, § 2; 2017, No. 94 (Adj. Sess.), § 5, eff. April 11, 2018; 2017, No. 154 (Adj. Sess.), § 26, eff. May 21, 2018.)

https://vermontgov-my.sharepoint.com/personal/deb\_ferrell\_vermont\_gov/Documents/FIREARMS/Procedure Document/Firearms Legislation - Title 20, Chapter 145.docx