

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 427

An Act to amend the Code of Virginia by adding in Chapter 1 of Title 52 sections numbered 52-11.4 and 52-11.5, relating to disposal of unclaimed property in the possession of State Police.

[H 360]

Approved April 12, 2004

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 1 of Title 52 sections numbered 52-11.4 and 52-11.5 as follows:

§ 52-11.4. Disposal of unclaimed property in the possession of State Police; exemption from the Uniform Disposition of Unclaimed Property Act.

The Department of State Police may provide for (i) the public sale in accordance with the provisions of this section or (ii) the retention for use by the State Police or other law-enforcement agency of any unclaimed personal property that has been in the possession of the State Police and unclaimed for a period of more than 60 days. For the purposes of this section, "unclaimed personal property" means any personal property, other than firearms or other weapons, belonging to another that has been acquired by a law-enforcement officer pursuant to his duties, that is not needed in any criminal prosecution, that has not been claimed by its rightful owner and that the State Treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.).

Prior to the sale or retention for use by the State Police of any unclaimed personal property, the Superintendent or his designee shall make reasonable attempts to (i) notify by mail the rightful owner of the property, (ii) obtain from the attorney for the Commonwealth of the jurisdiction in which the unclaimed item came into the possession of the State Police in writing a statement advising that the item is not needed in any criminal prosecution, (iii) cause to be published on the website maintained by the State Police for a period of 60 days notice that there will be a public display and sale of unclaimed personal property, including property selected for retention by the State Police, which shall be described generally in the notice, together with the date, time and place of the sale and shall be made available for public viewing at the sale, and (iv) cause to be published in a newspaper of general circulation in the locality where the sale is to be held once a week for two successive weeks prior to the sale, a notice that includes the date, time, place of the sale, general description of items to be sold and the State Police website address. The Superintendent or his designee shall pay from the proceeds of sale the costs of advertisement, removal, storage, investigation as to ownership and liens, and notice of sale. The balance of the funds shall be held by the Superintendent or his designee for the owner and paid to the owner upon satisfactory proof of ownership. Any unclaimed item retained for use by the State Police shall become the property of the Commonwealth and any property provided to other law-enforcement agencies shall become the property of the locality served by the agency and shall be retained only if, in the opinion of the Superintendent or chief law-enforcement officer, there is a legitimate use for the property by the agency and that retention of the item is a more economical alternative than purchase of a similar or equivalent item.

If no claim has been made by the owner for the property or proceeds of such sale within 60 days of the sale, the remaining funds shall be deposited in the Literary Fund of the Commonwealth and the retained property may be placed into use by the State Police or other law-enforcement agency. Any such owner shall be entitled to apply to the Commonwealth within one year from the date of the sale and, if timely application is made therefor and satisfactory proof of ownership of the funds or property is made, the Commonwealth shall pay the remaining proceeds of the sale or return the property to the owner without interest or other charges or compensation. No claim shall be made nor any suit, action or proceeding be instituted for the recovery of such funds or property after one year from the date of the sale.

§ 52-11.5. Disposal of unclaimed firearms or other weapons in possession of the State Police.

Subject to the provisions of § 18.2-310, the State Police may destroy unclaimed firearms and other weapons that have been in the possession of the Department for a period of more than 60 days and that have been determined by the Superintendent or his designee to be unsuitable to be placed in service with the Department. For the purposes of this section, "unclaimed firearms and other weapons" means any firearm or other weapon belonging to another that has been acquired by a law-enforcement officer pursuant to his duties, that is not needed in any criminal prosecution, that has not been claimed by its rightful owner and that the State Treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.).

At the discretion of the Superintendent or his designee, unclaimed firearms or other weapons may be destroyed by any means that render the firearms or other weapons permanently inoperable. Prior to the

destruction of such firearms or other weapons, the Superintendent or his designee shall comply with the notice provisions contained in § 52-11.4.