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HOUSE BILL NO. 563

Offered January 13, 2016

Prefiled January 11, 2016

A BILL to amend and reenact § 15.2-915.5 of the Code of Virginia, relating to disposition of firearms; licensed dealer right of action.

Patron—Lingamfelter

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-915.5 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-915.5. Disposition of firearms acquired by localities.

A. No locality or agent of such locality may participate in any program in which individuals are given a thing of value provided by another individual or other entity in exchange for surrendering a firearm to the locality or agent of such locality unless the governing body of the locality has enacted an ordinance, pursuant to § 15.2-1425, authorizing the participation of the locality or agent of such locality in such program.

B. Any ordinance enacted pursuant to this section shall require that any firearm received, except a firearm of the type defined in § 18.2-288 or 18.2-299 or a firearm the transfer for which is prohibited by federal law, shall be offered for sale by public auction or sealed bids to a person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq. Notice of the date, time, and place of sale shall be given by advertisement in at least two newspapers published and having general circulation in the Commonwealth, at least one of which shall have general circulation in the locality in which the property to be sold is located. At least 30 days shall elapse between publication of the notice and the auction or the date on which sealed bids will be opened. Any firearm remaining in possession of the locality or agent of the locality after attempts to sell at public auction or by sealed bids shall be disposed of in a manner the locality deems proper, which may include destruction of the firearm or, subject to any registration requirements of federal law, sale of the firearm to a licensed dealer.

C. *If a locality or agent of a locality fails to offer a firearm for sale, pursuant to this section, prior to destroying the firearm, a licensed dealer has a right of action against the locality. Such licensed dealer shall be entitled to reasonable costs and attorney fees if such person substantially prevails on the merits of the case and the agency's position is not substantially justified, unless special circumstances would make award unjust. The award of attorney fees shall not exceed \$25,000.*