

988671416

## HOUSE BILL NO. 856

Offered January 26, 1998

A *BILL to amend and reenact §§ 15.2-1721 and 18.2-310 of the Code of Virginia, relating to destruction of weapons by law enforcement.*

---

Patron—Putney

---

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That §§ 15.2-1721 and 18.2-310 of the Code of Virginia are amended and reenacted as follows:**

§ 15.2-1721. Disposal of unclaimed firearms or other weapons in possession of sheriff or police.

Any locality may destroy unclaimed firearms and other weapons which have been in the possession of law-enforcement agencies for a period of more than sixty days. For the purposes of this section, "unclaimed firearms and other weapons" means any firearm or other weapon belonging to another which has been acquired by a law-enforcement officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which 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 chief of police, sheriff, or their duly authorized agents, unclaimed firearms and other weapons may be destroyed by any means which renders the firearms and other weapons permanently inoperable. Prior to the destruction of such firearms and other weapons, the chief of police, sheriff, or their duly authorized agents shall *make reasonable attempts to notify the rightful owner of the property and otherwise* comply with the notice provision contained in § 15.2-1719.

§ 18.2-310. Forfeiture of certain weapons used in commission of criminal offense.

All pistols, shotguns, rifles, dirks, bowie knives, switchblade knives, ballistic knives, razors, slingshots, brass or metal knucks, blackjacks, stun weapons and tasers, and other weapons used by any person in the commission of a criminal offense, shall, upon conviction of such person, be forfeited to the Commonwealth by order of the court trying the case. The court shall dispose of such weapons as it deems proper by entry of an order of record. Such disposition may include the destruction of the weapons or, subject to any registration requirements of federal law, sale of the firearms to a licensed dealer in such firearms in accordance with the provisions of Chapter 22 (§ 19.2-369 et seq.) of Title 19.2 regarding sale of property forfeited to the Commonwealth. *Prior to the destruction or sale of a weapon pursuant to this section, the court shall inquire whether the law enforcement agency having possession of the weapon has made reasonable attempt to notify the rightful owner.*

The proceeds of any sale of such weapon shall be paid in accordance with the provisions of Article VIII, Section 8 of the Constitution of Virginia. In addition, the court may authorize the seizing law-enforcement agency to use the weapon for a period of time as specified in the order. When the seizing agency ceases to so use the weapon, it shall be disposed of as otherwise provided in this section.

However, upon petition to the court and notice to the attorney for the Commonwealth, the court, upon good cause shown, shall return any such weapon to its lawful owner after conclusion of all relevant proceedings if such owner (i) did not know and had no reason to know of the conduct giving rise to the forfeiture and (ii) is not otherwise prohibited by law from possessing the weapon. The owner shall acknowledge in a sworn affidavit to be filed with the record in the case or cases that he has retaken possession of the weapon involved.

INTRODUCED

HB856