

Effective 5/3/2023

Part 4
Disposal of Seized Property and Contraband

77-11a-401 Applicability of this part.

The provisions of this part do not apply to property or contraband:

- (1) for which an agency has filed a notice of intent to seek forfeiture under Chapter 11b, Forfeiture of Seized Property; or
- (2) until the property or contraband is no longer subject to the retention or preservation requirements under Chapter 11c, Retention of Evidence.

Renumbered and Amended by Chapter 448, 2023 General Session

77-11a-402 Disposition of seized property and contraband -- Return of seized property.

- (1)
 - (a) Except as provided in Subsection (1)(b), if a prosecuting attorney determines that seized property no longer needs to be retained as evidence under Chapter 11c, Retention of Evidence, the prosecuting attorney may:
 - (i) petition the court to apply the property that is money towards restitution, fines, fees, or monetary judgments owed by the owner of the property;
 - (ii) petition the court for an order transferring ownership of weapons to the agency with custody for the agency's use and disposal in accordance with Section 77-11a-403 if the owner:
 - (A) is the individual who committed the offense for which the weapon was seized; or
 - (B) may not lawfully possess the weapon; or
 - (iii) notify the agency with custody of the property or contraband that:
 - (A) the property may be returned to the owner in accordance with Section 77-11a-301 if the owner may lawfully possess the property; or
 - (B) the contraband may be disposed of or destroyed.
 - (b) If a prosecuting attorney determines that a firearm seized from an individual as a result of an offense committed under Subsection 76-10-529(2)(a)(i) no longer needs to be retained for court proceedings, the prosecuting attorney shall notify the agency with custody of the firearm that the property shall be returned to the individual if the individual may lawfully possess the firearm.
- (2) Before returning a firearm to an individual, the agency returning the firearm shall confirm, through the Bureau of Criminal Identification, that the individual is eligible to lawfully possess and receive firearms.
- (3)
 - (a) Except as provided in Subsection (3)(b), if the agency is unable to locate the owner of the property or the owner is not entitled to lawfully possess the property, the agency may:
 - (i) apply the property to a public interest use;
 - (ii) sell the property at public auction and apply the proceeds of the sale to a public interest use; or
 - (iii) destroy the property if the property is unfit for a public interest use or for sale.
 - (b) If the property described in Subsection (3)(a) is a firearm, the agency shall dispose of the firearm in accordance with Section 77-11a-403.
- (4) Before applying the property or the proceeds from the sale of the property to a public interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:

- (a) permission to apply the property or the proceeds to public interest use; and
 - (b) the designation and approval of the public interest use of the property or the proceeds.
- (5) If a peace officer seizes property that at the time of seizure is held by a pawn or secondhand business in the course of the pawn or secondhand business's business, the provisions of Section 13-32a-116 shall apply to the disposition of the property.

Amended by Chapter 332, 2024 General Session

77-11a-403 Disposition of firearms no longer needed as evidence.

- (1) As used in this section:
- (a) "Confiscated or unclaimed firearm" means a firearm that is subject to disposal by an agency under Section 53-5c-202 or 77-11a-402.
 - (b) "Department" means the Department of Public Safety created in Section 53-1-103.
 - (c) "Federally licensed firearms dealer" means a person:
 - (i) licensed as a dealer under 18 U.S.C. Sec. 923; and
 - (ii) engaged in the business of selling firearms.
 - (d) "State-approved dealer" means the federally licensed firearms dealer that contracts with the department under Subsection (4).
- (2) An agency shall dispose of a confiscated or unclaimed firearm by:
- (a) selling or destroying the confiscated or unclaimed firearm in accordance with Subsection (3);
 - (b) giving the confiscated or unclaimed firearm to the state-approved dealer to sell or destroy in accordance with Subsection (4) and the agreement between the state-approved dealer and the department; or
 - (c) after the agency obtains approval from the legislative body of the agency's jurisdiction, transferring the confiscated or unclaimed firearm to the Bureau of Forensic Services, created in Section 53-10-401, or another public forensic laboratory for testing.
- (3)
- (a) An agency that elects to dispose of a confiscated or unclaimed firearm under Subsection (2)
 - (a) shall:
 - (i) sell the confiscated or unclaimed firearm to a federally licensed firearms dealer and apply the proceeds from the sale to a public interest use; or
 - (ii) destroy the firearm, if the agency determines that:
 - (A) the condition of a confiscated or unclaimed firearm makes the firearm unfit for sale; or
 - (B) the confiscated or unclaimed firearm is associated with a notorious crime.
 - (b) Before an agency applies the proceeds of a sale of a confiscated or unclaimed firearm to a public interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:
 - (i) permission to apply the proceeds of the sale to a public interest use; and
 - (ii) the designation and approval of the public interest use to which the agency applies the proceeds.
- (4)
- (a)
 - (i) The department shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, contract with a federally licensed firearms dealer to sell or destroy all confiscated or unclaimed firearms in the state.
 - (ii) The term of an agreement executed in accordance with this Subsection (4) may not exceed five years.

- (iii) Nothing in this Subsection (4) prevents the department from contracting with the same federally licensed firearms dealer more than once.
- (b) An agreement executed in accordance with Subsection (4)(a) shall:
 - (i) address the amount of money that the federally licensed firearms dealer is entitled to retain from the sale of each confiscated or unclaimed firearm as compensation for the federally licensed firearms dealer's performance under the agreement;
 - (ii) require the federally licensed firearms dealer to donate, on behalf of the state, all proceeds from the sale of a confiscated or unclaimed firearm, except the amount described in Subsection (4)(b)(i), to an organization that:
 - (A) is exempt from taxation under Section 501(c)(3), Internal Revenue Code;
 - (B) complies with any applicable licensing or registration requirements in the state;
 - (C) primarily helps the families of law enforcement officers in the state who die in the line of duty;
 - (D) gives financial assistance to the families of law enforcement officers in the state who die in the line of duty; and
 - (E) provides other assistance to children of active law enforcement officers, including scholarships;
 - (iii) state that if the federally licensed firearms dealer determines that the condition of a confiscated or unclaimed firearm makes the firearm unfit for sale, the federally licensed firearms dealer shall destroy the firearm; and
 - (iv) provide a procedure by which the department can ensure that the federally licensed firearms dealer complies with the provisions of the agreement and applicable law.

Renumbered and Amended by Chapter 448, 2023 General Session