

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 335
Committee Substitute Favorable 4/25/01

Short Title: Seized Firearms/Official Law Enforcement Use.

(Public)

Sponsors:

Referred to:

March 1, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT SEIZED FIREARMS MAY BE USED BY LAW
3 ENFORCEMENT AGENCIES FOR OFFICIAL LAW ENFORCEMENT
4 PURPOSES.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S.15-11.1(b1) reads as rewritten:

7 "(b1) Notwithstanding subsections (a) and (b) of this section or any other provision
8 of law, if the property seized is a firearm and the district attorney determines the firearm
9 is no longer necessary or useful as evidence in a criminal trial, the district attorney, after
10 notice to all parties known or believed by the district attorney to have an ownership or a
11 possessory interest in the firearm, including the defendant, shall apply to the court for an
12 order of disposition of the firearm. The judge, after hearing, may order the disposition
13 of the firearm in one of the following ways:

14 (1) By ordering the firearm returned to its rightful owner, when the
15 rightful owner is someone other than the defendant and upon findings
16 by the court (i) that the person, firm, or corporation determined by the
17 court to be the rightful owner is entitled to possession of the firearm
18 and (ii) that the person, firm, or corporation determined by the court to
19 be the rightful owner of the firearm was unlawfully deprived of the
20 same or had no knowledge or reasonable belief of the defendant's
21 intention to use the firearm unlawfully.

22 (2) By ordering the firearm returned to the defendant, but only if the
23 defendant is not convicted of any criminal offense in connection with
24 the possession or use of the firearm, the defendant is the rightful owner
25 of the firearm, and the defendant is not otherwise ineligible to possess
26 such firearm.

27 (3) By ordering the firearm turned over to be destroyed by the sheriff of
28 the county in which the firearm was seized or by his duly authorized

1 agent. The sheriff shall maintain a record of the destruction of the
2 firearm.

3 (4) By ordering the firearm turned over to a law enforcement agency in
4 the county of trial for the official use of the agency. The court may
5 order this disposition of the firearm only upon the written request by
6 the head or chief of the law enforcement agency and only if the firearm
7 has a legible, unique identification number. The receiving law
8 enforcement agency shall maintain a record and inventory of all
9 firearms received pursuant to this section.

10 This subsection (b1) is not applicable to seizures pursuant to G.S. 113-137 of
11 firearms used only in connection with a violation of Article 22 of Chapter 113 of the
12 General Statutes or any local wildlife hunting ordinance."

13 **SECTION 2.** This act is effective when it becomes law.