

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1423

By: Shurden of the Senate

and

Erwin of the House

AS INTRODUCED

An Act relating to crimes and punishments; prohibiting gun buy-back programs; setting penalty; providing procedure for sale, donation or destruction of certain firearms; limiting destruction of firearms to certain agency under certain criteria; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1290.27 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. No law enforcement agency of this state or any political subdivision of this state, including any unincorporated city or town, or any other agency shall participate in a "gun buy-back program" or other program in which firearms or ammunition are purchased or surrendered for the purpose of destruction. Any person convicted of a violation of this subsection shall be guilty of a misdemeanor. Each firearm destroyed in violation of this subsection shall constitute a separate offense.

B. No firearm shall be melted down or destroyed except by the Oklahoma State Bureau of Investigation pursuant to the following conditions:

1. The serial number of all firearms surrendered or abandoned shall be checked against all state and federal records of stolen firearms;

2. The serial number of every firearm to be sold, donated or destroyed pursuant to the provisions of this section shall be retained for ten (10) years;

3. All lawful owners of any firearm to be sold, donated or destroyed pursuant to the provisions of this section shall be positively identified and each owner shall provide written permission for the firearm to be disposed of or destroyed. Such written permission shall be retained for ten (10) years;

4. The Bureau shall provide a written determination whether or not the firearm is stolen. Such written determination shall be retained for ten (10) years;

5. If it is determined by the Bureau that any firearm to be sold, donated or destroyed pursuant to the provisions of this section is stolen, the Bureau shall:

- a. make an effort to arrest the thief or any person who possessed the firearm knowing it was stolen, and
- b. make an effort to return the firearm to a lawful owner and prior to returning the stolen firearm to a lawful owner, the Bureau shall determine whether or not the lawful owner is eligible to possess a firearm under state and federal laws. If a lawful owner is ineligible to possess a firearm under state or federal laws, the Bureau may sell, donate, destroy or use the firearm after compliance with the provisions of this section;

6. The Bureau shall make a written determination whether or not the firearm to be sold, donated or destroyed pursuant to the provisions of this section may have been used in a crime and:

- a. if a firearm may have probably been used in a crime, the firearm shall be retained for evidence,
- b. if the firearm was probably not used in a crime, and if the firearm is a rifled firearm, a fired bullet and

fired cartridge case shall be retained for possible evidence, or

- c. if the firearm was probably not used in a crime, and if the firearm is a smooth bore firearm, a fired cartridge case shall be retained for possible use as evidence;

7. The Bureau may sell to any licensed federal firearms dealer any firearm not useable by any law enforcement agency of this state or any political subdivision of this state. Proceeds from the sale shall be retained by the Bureau;

8. The Bureau may donate any old or antique firearm to a museum; and

9. The Bureau may destroy any surrendered or abandoned firearm which cannot be reasonably used by any law enforcement agency of this state or any political subdivision of this state upon compliance with the provisions of this section.

C. Nothing in this section shall be construed to conflict with or supersede any provision of law relating to evidence or seizure or forfeiture of firearms or other property. This section shall be construed only to effect voluntary surrender or abandonment of firearms by the lawful owner of a firearm.

SECTION 2. This act shall become effective November 1, 2002.

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