House Engrossed

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HOUSE BILL 2455

AN ACT

AMENDING SECTIONS 12-940 AND 12-941, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 7, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-943; AMENDING SECTIONS 12-944, 12-945 AND 13-3108, ARIZONA REVISED STATUTES; RELATING TO UNCLAIMED PROPERTY IN HANDS OF PUBLIC AGENCY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 12-940, Arizona Revised Statutes, is amended to read:

12-940. Definitions

In this article, unless the context otherwise requires:

1. "Dispose" means the transfer of property by its return to the owner, sale, conversion or destruction or by any other means of disposal.

2. "Evidence" means property that is held for possible presentation in a judicial or administrative proceeding to establish the truth or falsity of an alleged matter of fact.

3. "Found property" means recovered, lost, SURRENDERED ~~or~~, abandoned OR OTHERWISE RECEIVED property that is turned over to a public agency where the owner may or may not be known and that is not classified as evidence.

4. "Property" means any item, including currency, that is held for safekeeping or as evidence or found property or that has been abandoned, unclaimed or awarded by the court.

5. "Property value" means the reasonable value of the property in its present condition.

6. "Safekeeping" means storage of an asset or item of value by a public agency that is not classified as evidence and that belongs to a known individual.

Sec. 2. Section 12-941, Arizona Revised Statutes, is amended to read:

12-941. Disposal of certain unclaimed property in the custody of a state, county, city or town agency

A. A state, county, city or town agency shall dispose of all property that was used as evidence and that remains unclaimed in the hands of the agency, after final disposition of the cause in which so used, or that was seized by a peace officer as being used unlawfully or for an unlawful purpose and that was held unclaimed from the date of seizure, or that came into the hands of the agency as unclaimed or contraband. A law enforcement agency may retain and use those items that have a useful value to that law enforcement agency.

B. Found property turned over to a state, county, city or town agency may be returned to the person who found and turned it over if all of the following conditions apply:

1. The property is not contraband OR A FIREARM.

2. The property remains unclaimed for thirty days after reasonable efforts have been made to locate and notify the owner.

3. The person who found and turned over the property is not a public officer or employee of the federal, a state or a local government who found the property in the course of performing the duties of the office or employment.

C. If United States currency is delivered to the proper agency pursuant to subsection A of this section, it shall be deposited in the general fund of the state, county, city or town, as the case may be.

D. A record of all transactions shall be maintained for at least twenty-four months.

Sec. 3. Title 12, chapter 7, article 8, Arizona Revised Statutes, is amended by adding section 12-943, to read:

12-943. Authorized dispositions

ALL PROPERTY THAT IS DESCRIBED IN SECTION 12-941 AND THAT IS IN THE POSSESSION OF A STATE, COUNTY, CITY OR TOWN AGENCY MAY ONLY BE DISPOSED OF PURSUANT TO THIS ARTICLE.

Sec. 4. Section 12-944, Arizona Revised Statutes, is amended to read:

12-944. Owner receipt; publication of property valued at more than one hundred fifty dollars

~~A. If any property is available for release and the owner is known, the agency shall make a reasonable attempt to notify the owner.~~

A. IF AN AGENCY TAKES ANY PROPERTY FROM A PERSON, THE AGENCY SHALL PROVIDE THE PERSON WITH A DETAILED RECEIPT FOR THE PROPERTY. THE RECEIPT SHALL CONTAIN A NOTICE TO THE PERSON ON HOW TO RETRIEVE THE PROPERTY FROM THE AGENCY.

B. If the owner of found property that has a value of more than one hundred fifty dollars is not known, the agency holding the property shall publish or post a notice containing a description of the property before the final disposal of the property.

Sec. 5. Section 12-945, Arizona Revised Statutes, is amended to read:

12-945. Sale of property

A. If after thirty days' notice has been given the owner or person entitled to the property has not taken it away, the property may be sold. The proceeds shall be paid to the general fund of the jurisdiction from which the unclaimed property was received.

B. Notwithstanding subsection A of this section, if the property is a firearm, the ~~court shall order the firearm to be sold~~ AGENCY SHALL SELL THE FIREARM to any business that is authorized to receive and dispose of the firearm under federal and state law and that shall sell the firearm to the public according to federal and state law, unless the firearm is otherwise prohibited from being sold under federal and state law. A law enforcement agency may trade a firearm that it has retained to a federal firearms licensed business for ammunition, weapons, equipment or other materials to be exclusively used for law enforcement purposes.

Sec. 6. Section 13-3108, Arizona Revised Statutes, is amended to read:

13-3108. Firearms regulated by state; state preemption; violation; classification; definition

A. Except as provided in subsection ~~F~~ G of this section, a political subdivision of this state shall not enact any ordinance, rule or tax relating to the transportation, possession, carrying, sale, transfer, purchase, acquisition, gift, devise, storage, licensing, registration, discharge or use of firearms or ammunition or any firearm or ammunition components or related accessories in this state.

B. A political subdivision of this state shall not require the licensing or registration of firearms or ammunition or any firearm or ammunition components or related accessories or prohibit the ownership, purchase, sale or transfer of firearms or ammunition or any firearm or ammunition components, or related accessories.

C. A political subdivision of this state shall not require or maintain a record in any form, whether permanent or temporary, including a list, log or database, of any of the following:

1. Any identifying information of a person who leaves a weapon in temporary storage at any public establishment or public event, except that the operator of the establishment or the sponsor of the event may require that a person provide a government issued identification or a reasonable copy of a government issued identification for the purpose of establishing ownership of the weapon. The operator or sponsor shall store any provided identification with the weapon and shall return the identification to the person when the weapon is retrieved. The operator or sponsor shall not retain records or copies of any identification provided pursuant to this paragraph after the weapon is retrieved.

2. Except in the course of a law enforcement investigation, any identifying information of a person who purchases, sells or transfers a firearm, unless the transaction involves a federally licensed firearms dealer.

3. The description, including the serial number, of a weapon that is left in temporary storage at any public establishment or public event.

D. A political subdivision of this state shall not enact any rule or ordinance that relates to firearms and is more prohibitive than or that has a penalty that is greater than any state law penalty. A political subdivision's rule or ordinance that relates to firearms and that is inconsistent with or more restrictive than state law, whether enacted before or after ~~the effective date of the amendment to this section~~ JULY 29, 2010, is null and void.

E. A political subdivision of this state shall not enact any ordinance, rule or regulation limiting the lawful taking of wildlife during an open season established by the Arizona game and fish commission unless the ordinance, rule or regulation is consistent with title 17 and rules and orders adopted by the Arizona game and fish commission. This subsection does not prevent a political subdivision from adopting an ordinance or rule restricting the discharge of a firearm within one-fourth mile of an occupied structure. For THE purposes of this subsection, "take" has the same meaning prescribed in section 17-101.

F. THIS STATE, ANY AGENCY OR POLITICAL SUBDIVISION OF THIS STATE AND ANY LAW ENFORCEMENT AGENCY IN THIS STATE SHALL NOT FACILITATE THE DESTRUCTION OF A FIREARM OR PURCHASE OR OTHERWISE ACQUIRE A FIREARM FOR THE PURPOSE OF DESTROYING THE FIREARM EXCEPT AS AUTHORIZED BY SECTION 13-3105 OR 17-240.

~~F.~~ G. This section does not prohibit a political subdivision of this state from enacting and enforcing any ordinance or rule pursuant to state law or relating to any of the following:

1. Imposing any privilege or use tax on the retail sale, lease or rental of, or the gross proceeds or gross income from the sale, lease or rental of, firearms or ammunition or any firearm or ammunition components at a rate that applies generally to other items of tangible personal property.

2. Prohibiting a minor who is unaccompanied by a parent, grandparent or guardian or a certified hunter safety instructor or certified firearms safety instructor acting with the consent of the minor's parent, grandparent or guardian from knowingly possessing or carrying on the minor's person, within the minor's immediate control or in or on a means of transportation a firearm in any place that is open to the public or on any street or highway or on any private property except private property that is owned or leased by the minor or the minor's parent, grandparent or guardian. Any ordinance or rule that is adopted pursuant to this paragraph shall not apply to a minor who is fourteen, fifteen, sixteen or seventeen years of age and who is engaged in any of the following:

(a) Lawful hunting or shooting events or marksmanship practice at established ranges or other areas where the discharge of a firearm is not prohibited.

(b) Lawful transportation of an unloaded firearm for the purpose of lawful hunting.

(c) Lawful transportation of an unloaded firearm for the purpose of attending shooting events or marksmanship practice at established ranges or other areas where the discharge of a firearm is not prohibited.

(d) Any activity that is related to the production of crops, livestock, poultry, livestock products, poultry products or ratites or storage of agricultural commodities.

3. The regulation of land and structures, including a business relating to firearms or ammunition or their components or a shooting range in the same manner as other commercial businesses. Notwithstanding any other law, this paragraph does not authorize a political subdivision to regulate the sale or transfer of firearms on property it owns, leases, operates or controls in a manner that is different than or inconsistent with state law. For the purposes of this paragraph, a use permit or other contract that provides for the use of property owned, leased, operated or controlled by a political subdivision shall not be considered a sale, conveyance or disposition of property.

4. Regulating employees or independent contractors of the political subdivision who are acting within the course and scope of their employment or contract.

5. Limiting or prohibiting the discharge of firearms in parks and preserves except:

(a) As allowed pursuant to chapter 4 of this title.

(b) On a properly supervised range as defined in section 13-3107.

(c) In an area approved as a hunting area by the Arizona game and fish department. Any such area may be closed when deemed unsafe by the director of the Arizona game and fish department.

(d) To control nuisance wildlife by permit from the Arizona game and fish department or the United States fish and wildlife service.

(e) By special permit of the chief law enforcement officer of the political subdivision.

(f) As required by an animal control officer in performing duties specified in section 9-499.04 and title 11, chapter 7, article 6.

(g) In self-defense or defense of another person against an animal attack if a reasonable person would believe that deadly physical force against the animal is immediately necessary and reasonable under the circumstances to protect oneself or the other person.

~~G.~~ H. A violation of any ordinance established pursuant to subsection ~~F~~ G, paragraph 5 of this section is a class 2 misdemeanor unless the political subdivision designates a lesser classification by ordinance.

~~H.~~ I. For the purposes of this section, "political subdivision" includes a political subdivision acting in any capacity, including under police power, in a proprietary capacity or otherwise.