

House Engrossed

**FILED**  
**KEN BENNETT**  
**SECRETARY OF STATE**

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

CHAPTER 145

# **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)

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

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

4 12-940. Definitions

5 In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

23 12-941. Disposal of certain unclaimed property in the custody  
24 of a state, county, city or town agency

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

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

36 1. The property is not contraband OR A FIREARM.

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

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

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

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

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

5 12-943. Authorized dispositions

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

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

10 12-944. Owner receipt; publication of property valued at more  
11 than one hundred fifty dollars

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

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

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

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

23 12-945. Sale of property

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

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

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

38 13-3108. Firearms regulated by state; state preemption;  
39 violation; classification; definition

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

APPROVED BY THE GOVERNOR APRIL 29, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2013.

Passed the House March 7, 20 13

Passed the Senate April 16, 20 13

by the following vote: 36 Ayes,

by the following vote: 18 Ayes,

23 Nays, 1 Not Voting

12 Nays, 0 Not Voting

[Signature]

Speaker of the House

[Signature]

President of the Senate

[Signature]

Chief Clerk of the House

[Signature]

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

25 day of April, 20 13

at 3:30 o'clock P M.

[Signature]

Secretary to the Governor

Approved this 29<sup>th</sup> day of

April

at 5:05 o'clock P. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 30<sup>th</sup> day of April, 20 13

at 9:35 o'clock AM M.

[Signature]

Secretary of State

H.B. 2455