

HOUSE BILL No. 1348

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-47-3-2.

Synopsis: Disposal of firearms by trade for new equipment. Permits a law enforcement agency to dispose of certain confiscated firearms by trade with a licensed firearms dealer, a licensed firearm manufacturer, or another law enforcement agency in exchange for new firearms and other law enforcement equipment. Sets forth the recording and reporting requirements for the trade of firearms by a law enforcement agency.

Effective: July 1, 2023.

Lucas, Bartels, Jeter, Torr

January 17, 2023, read first time and referred to Committee on Veterans Affairs and Public Safety.



First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1348

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-47-3-2, AS AMENDED BY P.L.101-2017,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 2. (a) This section applies only to firearms which
4 are not required to be registered in the National Firearms Registration
5 and Transfer Record.
6 (b) Firearms shall be returned to the rightful owner at once
7 following final disposition of the cause if a return has not already
8 occurred under the terms of IC 35-33-5. If the rightful ownership is not
9 known the law enforcement agency holding the firearm shall make a
10 reasonable attempt to ascertain the rightful ownership and cause the
11 return of the firearm. However, nothing in this chapter shall be
12 construed as requiring the return of firearms to rightful owners who
13 have been convicted for the misuse of firearms. In such cases, the court
14 may provide for the return of the firearm in question or order that the
15 firearm be at once delivered:
16 (1) except as provided in subdivision (2), to the sheriff's
17 department of the county in which the offense occurred; or



- 1 (2) to the law enforcement agency that confiscated the firearm.
- 2 (c) If at least one hundred eighty (180) days have elapsed since the
- 3 sheriff's department or law enforcement agency received the firearm,
- 4 and:
- 5 (1) all reasonable attempts to locate the rightful owner of the
- 6 firearm have failed; or
- 7 (2) the rightful owner has been convicted of an offense related to
- 8 the misuse of a firearm;
- 9 the sheriff's department or law enforcement agency shall dispose of the
- 10 firearm as described in subsection (d).
- 11 (d) Subject to subsection (c), the receiving law enforcement agency
- 12 shall dispose of firearms under subsection (b), at the discretion of the
- 13 law enforcement agency, by use of any of the following procedures:
- 14 (1) Public sale of the firearms to the general public as follows:
- 15 (A) Notice of the sale shall be:
- 16 (i) posted for ten (10) days in the county courthouse in a
- 17 place readily accessible to the general public; and
- 18 (ii) advertised in the principal newspaper of the county for
- 19 two (2) days in an advertisement that appears in the
- 20 newspaper at least five (5) days prior to the sale.
- 21 (B) Disposition of the firearm shall be by public auction in a
- 22 place convenient to the general public, with disposition going
- 23 to the highest bidder. However, no firearm shall be transferred
- 24 to any bidder if that bidder is not lawfully eligible to receive
- 25 and possess firearms according to the laws of the United States
- 26 and Indiana.
- 27 (C) All handguns transferred under this subdivision shall also
- 28 be transferred according to the transfer procedures set forth in
- 29 this article.
- 30 (D) Money collected pursuant to the sales shall first be used to
- 31 defray the necessary costs of administering this subdivision
- 32 with any surplus to be:
- 33 (i) deposited into the receiving law enforcement agency's
- 34 firearms training fund, other appropriate training activities
- 35 fund, or any other fund that may be used by the receiving
- 36 law enforcement agency for the purchase and maintenance
- 37 of firearms, ammunition, vests, and other law enforcement
- 38 equipment; and
- 39 (ii) used by the agency exclusively to train law enforcement
- 40 officers in the proper use of firearms or other law
- 41 enforcement duties, and to purchase and maintain firearms,
- 42 ammunition, vests, and other law enforcement equipment.



1 A law enforcement agency may not sell a firearm to the general
2 public if the firearm is unsafe to operate because it has been
3 damaged or altered.

4 (2) Sale of the firearms to a licensed firearms dealer as follows:

5 (A) Notice of the sale must be:

6 (i) posted for ten (10) days in the county courthouse in a
7 place readily accessible to the general public; and

8 (ii) advertised in the principal newspaper of the county for
9 two (2) days in an advertisement that appears in the
10 newspaper at least five (5) days before the sale.

11 (B) Disposition of the firearm shall be by auction with
12 disposition going to the highest bidder who is a licensed
13 firearms dealer.

14 (C) Money collected from the sales shall first be used to defray
15 the necessary costs of administering this subdivision and any
16 surplus shall be:

17 (i) deposited into the receiving law enforcement agency's
18 firearms training fund, other appropriate training activities
19 fund, or any other fund that may be used by the receiving
20 law enforcement agency for the purchase and maintenance
21 of firearms, ammunition, vests, and other law enforcement
22 equipment; and

23 (ii) used by the agency exclusively to train law enforcement
24 officers in the proper use of firearms or other law
25 enforcement duties, and to purchase and maintain firearms,
26 ammunition, vests, and other law enforcement equipment.

27 A law enforcement agency may sell a firearm to a licensed
28 firearms dealer for salvage or repair, even if the firearm is unsafe
29 to operate because it has been damaged or altered.

30 (3) Sale or transfer of the firearms to another law enforcement
31 agency.

32 (4) Release to the state police department laboratory or other
33 forensic laboratory administered by the state or a political
34 subdivision (as defined in IC 36-1-2-13) for the purposes of
35 research, training, and comparison in conjunction with the
36 forensic examination of firearms evidence.

37 (5) Destruction of the firearms. A firearm that is to be destroyed
38 may be sold to a salvage company and destroyed by dismantling
39 the firearm for parts, scrap metal, or recycling, or for resale as
40 parts for other firearms.

41 **(6) Trade with:**

42 **(A) a licensed firearms dealer;**



- 1 **(B) a licensed firearm manufacturer; or**
2 **(C) another law enforcement agency;**
3 **in exchange for new firearms, ammunition, vests, and other**
4 **law enforcement equipment for use by the law enforcement**
5 **agency.**
- 6 (e) A receiving law enforcement agency may, at its discretion,
7 jointly sell firearms it has received with another law enforcement
8 agency, or permit another law enforcement agency to sell firearms it
9 has received on behalf of the receiving law enforcement agency. In any
10 event, all confiscated firearms shall be disposed of as promptly as
11 possible.
- 12 (f) When a firearm is delivered to the state police department
13 laboratory or other forensic laboratory under subsection (d)(4) and the
14 state police department laboratory or other forensic laboratory
15 determines the laboratory has no further need for the firearm in
16 question, the laboratory shall return the firearm to the law enforcement
17 agency for disposal under subsection (d).
- 18 **(g) A law enforcement agency that disposes of a firearm under**
19 **subsection (d)(6) shall maintain a record of each exchange made,**
20 **including identification of the:**
- 21 **(1) firearm that was exchanged;**
22 **(2) person with whom the exchange was made; and**
23 **(3) law enforcement equipment for which the firearm was**
24 **exchanged.**
- 25 **(h) A law enforcement agency's record of a firearm trade is a**
26 **public record subject to IC 5-14-3.**

