

VERMONT DEPARTMENT OF PUBLIC SAFETY

GUIDELINES FOR THE STORAGE OF NON-EVIDENTIARY FIREARMS RELINQUISHED PURSUANT TO RELIEF FROM ABUSE ORDERS

Title 20, Chapter 145, Section 2307 governs the process for law enforcement agencies and approved federally licensed firearms dealers (“FFLs”) to store non-evidentiary firearms relinquished pursuant to a relief from abuse orders. The Department of Public Safety (“DPS”) is responsible for implementing standards and guidelines to carry out this process by: (1) establishing minimum standards for qualification as a storage location; (2) maintaining a list of qualified storage locations; (3) establishing a fee schedule in accordance with the fees set forth in statute; and (4) establishing standards for law enforcement agencies and FFLs for the storage of court ordered, non-evidentiary firearms. A firearm under these guidelines means “(A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.” 18 U.S.C. § 921(a)(3); 20 V.S.A. § 2307(a)(2).

List of Authorized Storage Locations

The Department of Public Safety shall maintain a list of qualified storage sites for the storage of court ordered, non-evidentiary relinquished firearms. These storage sites should be used when the court issues an order that requires the removal of firearms, such as a final or emergency relief from abuse order. The list shall be available on the department’s website at:

<http://vsp.vermont.gov/firearmstorage>

Any law enforcement agency or FFL listed as a qualified storage facility should adhere to these guidelines. An FFL must have an active federal firearms license to participate and shall provide an annual certification of compliance with the identified Department standards to receive firearms. The FFL is required to enter the acquisition information (name and address) for the person from whom it receives the firearm (e.g., Mr. John Doe, 1 Main St., Vergennes, VT, Vermont State Police, Williston Barracks, 2777 St. George Rd, Williston, VT, or Chittenden County Sheriff’s Department, 70 Ethan Allen Dr, South Burlington, VT). Per ATF requirements, the firearm owner’s name should not be entered in the acquisition information unless that is the person who delivers the firearm to the FFL.

Any law enforcement agency or FFL shall fill out a location compliance form and will remain active in the program unless they make a written request to withdraw or are removed by the Department of Public Safety.

A law enforcement agency may opt to only store firearm(s) for residents within their geographic area of jurisdiction or offer storage for anyone in the State of Vermont. The list of storage sites indicates if a particular site is limited to a geographic region and contains an interactive map to help users locate a site.

All recognized storage facilities must comply with the above identified standards and guidelines established by the Vermont Department of Public Safety.

When an FFL is utilized for storage, the law enforcement agency involved in serving the order typically facilitates the storage process by taking possession of the firearm, presenting the owner with a receipt at the time of relinquishment that includes the serial number and identifying characteristics of the firearm, and recording the receipt of the item or items in a log to be established by the Department. The law enforcement agency serving the order typically arranges drop off and eventual pickup of firearms. Communication about the weapons should occur between the person who was served the order and the law enforcement agency that served the order.

Any firearms regulated under the National Firearms Act (NFA), should not be stored at an FFL for this program and be stored at a law enforcement agency. Officers should contact ATF to ensure proper protocol is followed. NFA items include: short-barreled shotguns and rifles, machine guns, and silencers.

Liability

No State agency or department or State official shall be subject to any civil, criminal, administrative, or regulatory liability for any act taken or omission made in reliance on the provisions of Chapter 145, Title 20. 20 V.S.A. § 2305(d). A law enforcement agency approved to participate in this program “shall be immune from civil or criminal liability for any damage or deterioration of firearms, ammunition, or other weapons stored or transported pursuant to subsection (c)” of 20 V.S.A. § 2307 unless “the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law enforcement agency.” 20 V.S.A. § 2307(h). Persons who utilize this program may be requested to sign a waiver of liability if the FFL chooses to require one.

Transportation

Firearms will be transported in accordance with Vermont law. They should be unloaded and in a secure location inside the vehicle that is not accessible to children or prohibited persons. Every precaution should be taken to ensure the weapons are not accessible from outside the motor vehicle.

Firearm and Ammunition Storage

Firearms shall be stored unloaded and in an authorized location in the following manner.

- The authorized locations shall be secure and not accessible to unauthorized personnel or children.
- For law enforcement agencies, firearms shall be stored utilizing two levels of physical security. Two levels of physical security means two distinct lockable barriers, each specifically designed to render a weapon inaccessible and unusable to unauthorized persons. Lockable barriers meeting this description may be either manual or electronic.
- For FFL’s, firearms shall be stored in a manner that prevents unauthorized access.

- A gun case may be provided by the owner to a law enforcement agency or FFL with their consent.
- Ammunition will be stored in a separate locked compartment.

Fees

Fees shall not be charged until after the court issues a final order. The following is a summary of fees associated with the storage of weapons:

- A law enforcement agency that stores weapons or ammunition may charge the owner a reasonable storage fee not to exceed \$200.00 for the first firearm and \$50.00 for each additional firearm for up to 15 months. The fees shall be prorated on the number of months the firearm or ammunition was stored.
- An FFL that stores weapons or ammunition pursuant to a court relinquishment order may charge the owner a storage fee that is reasonably related to the expenses it incurs in the administration of processing and storing the weapons or ammunition. Each FFL will provide a copy of their fee schedule to the Department of Public Safety (Firearms Storage Program, 45 State Drive, Waterbury VT 05671) and the court at: jud.security@vermont.gov

Process for Relinquishment

If the court orders firearms or ammunition relinquished to a law enforcement agency or FFL, the person shall immediately relinquish the property to the agency serving the order.

If the order is being served on a person where the firearm(s) or ammunition are located, the firearm(s) or ammunition shall be given to the law enforcement officer. If the firearm is stored in a different location, the serving officer shall arrange for law enforcement to accompany defendant to retrieve the firearms whenever feasible. The serving agency shall follow up with the storage facility to ensure that the firearm(s) were delivered. If the firearms are not surrendered as order, the serving agency may consider initiating a criminal investigation into a possible violation of any abuse prevention order.

Law enforcement shall perform an inventory of items ordered relinquished. This inventory shall include a photograph of the weapon and documenting the make, model if applicable, caliber, and serial number. Law enforcement shall check the weapon through NCIC or other records when feasible. Firearms that were part of a pending criminal matter shall be retained by the investigating agency. They will be logged as evidence and will not be subject to storage fees. The responsible law enforcement agency shall provide a receipt to give to the owner which records the property being stored. This information should also be entered within the law enforcement agency's records management system. The FFL shall keep accurate acquisition/disposition records as required by ATF that records the property being stored and released.

Release of Items and Sale

Firearms or ammunition may be released to the owner after the owner is legally allowed to possess the firearms or ammunition. This will be determined through a court order authorizing the release of the firearms or ammunition and only after a law enforcement agency has verified the court order authorizing their release. It is defendant's responsibility to obtain the appropriate paperwork from the court authorizing release and to provide a copy of the paperwork to law enforcement at the time of the request. If a court orders the release of firearms, the law enforcement agency or FFL shall release the firearm(s) or ammunition within three business days of receipt of the court order provided that defendant is not prohibited from possession for other reasons and that the firearm is not an illegal firearm according any state or federal law. An ATF Form 4473 – Firearms Transaction Record and NICS check (National Instant Criminal Background Check System) will be required to be completed prior to transferring the firearm(s). The storage facility shall ensure the firearms and ammunition are returned to the owner in the same condition as received.

If the owner fails to retrieve the firearm or ammunition and pay the applicable storage fees within 90 days of the court order releasing the items, they may be sold for fair market value by the FFL or law enforcement agency. The title of the items shall pass to the law enforcement agency or FFL for the purpose of transferring ownership. If the law enforcement agency or FFL prefers that the Department of Buildings and General Services sells the firearm, the firearm must be unclaimed for more than 18 months and deemed an abandoned firearm pursuant to 20 V.S.A. §§ 2302(4). The State Police will be guided by the process outlined in 20 V.S.A. § 2305.

Pursuant to Vermont statute, the law enforcement agency or FFL must make a reasonable effort to notify the owner of the sale before it occurs. "Reasonable effort" means notice shall be served as provided by Rule 4 of the Vermont Rules of Civil Procedure. When personal service cannot be made with due diligence, notification may be made by mail. The serving agency shall request defendant to provide an address where notice of sale can be mailed by first class mail. If defendant does not agree to provide an address, law enforcement shall notify defendant that they will be assessed the cost of personal service in addition to storage fees.

In the event the firearms or ammunition are sold, the proceeds from the sale shall be apportioned as follows:

- Unpaid storage fees and associated costs, including the costs of sale and of locating and serving the owner, shall be paid to the law enforcement agency or FFL that incurred the costs; and
- Any proceeds remaining after payment is made above shall be paid to the original owner.