

4/10/2014 – EBF/BNH - 3:46 PM

DRAFT FOR DISCUSSION PURPOSES ONLY

FEES/CAPS TO BE DETERMINED BY SENATE FINANCE COMMITTEE

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 735 entitled

3 “An act relating Executive Branch and Judiciary fees” respectfully reports that

4 it has considered the same and recommends that the Senate propose to the

5 House that the report of the Committee on Finance be amended by striking

6 Sec. 20 in its entirety and inserting in lieu thereof a new Sec. 20 to read as

7 follows:

8 Sec. 20. 20 V.S.A. § 2307 is added to read:

9 § 2307. FIREARMS RELINQUISHED PURSUANT TO RELIEF FROM

10 ABUSE ORDER; STORAGE; FEES; RETURN

11 (a) As used in this section:

12 (1) “Federally licensed firearms dealer” means a licensed importer,  
13 licensed manufacturer, or licensed dealer required to conduct national instant  
14 criminal background checks under 18 U.S.C. § 922(t).

15 (2) “Firearm” shall have the same meaning as in 18 U.S.C. § 921(a)(3).

16 (3) “Law enforcement agency” means the Vermont State Police, a  
17 municipal police department, or a sheriff’s department.

18 (4) “Person” means anyone who meets the definition of “intimate  
19 partner” under 18 U.S.C. § 921(a)(32) or who qualifies as a family or  
20 household member under 15 V.S.A. § 1101.

4/10/2014 – EBF/BNH - 3:46 PM

DRAFT FOR DISCUSSION PURPOSES ONLY

FEES/CAPS TO BE DETERMINED BY SENATE FINANCE COMMITTEE

1       (b)(1) A person who is required to relinquish firearms, ammunition, or  
2       other weapons in the person's possession by a court order issued under 15  
3       V.S.A. chapter 21 (abuse prevention) or any other provision of law consistent  
4       with 18 U.S.C. § 922(g)(8) shall, unless the Court orders an alternative  
5       relinquishment pursuant to subdivision (2) of this section, upon service of the  
6       order immediately relinquish the firearms, ammunition, or weapons to a  
7       cooperating law enforcement agency or an approved federally licensed  
8       firearms dealer.

9       (2)(A) The Court [?? may//shall ??] order that the person relinquish the  
10       firearms, ammunition, or other weapons to a person other than a cooperating  
11       law enforcement agency or an approved federally licensed firearms dealer if  
12       the Court finds that relinquishment to the other person will adequately protect  
13       the safety of the victim.

14       (B) A person to whom firearms, ammunition, or other weapons are  
15       relinquished pursuant to subdivision (2)(A) of this section shall execute an  
16       affidavit on a form approved by the Court Administrator stating that the  
17       person:

18               (i) acknowledges receipt of the firearms, ammunition, or other  
19       weapons;

20               (ii) assumes responsibility for storage of the firearms,  
21       ammunition, or other weapons until further order of the court;

4/10/2014 – EBF/BNH - 3:46 PM

DRAFT FOR DISCUSSION PURPOSES ONLY

FEES/CAPS TO BE DETERMINED BY SENATE FINANCE COMMITTEE

1                    (iii) is not prohibited from owning or possessing firearms under  
2                    State or Federal law; and

3                    (iv) understands the obligations and requirements of the Court  
4                    order, including the potential for the person to be subject to civil contempt  
5                    proceedings pursuant to this subdivision (2)(A) of this section if the person  
6                    permits the firearms, ammunition, or other weapons to be possessed, accessed  
7                    or used by the person who relinquished the firearm or by any other person not  
8                    authorized by law to do so.

9                    (C) A person to whom firearms, ammunition, or other weapons are  
10                  relinquished pursuant to this subdivision (2)(A) of this section shall be subject  
11                  to civil contempt proceedings under 12 V.S.A. chapter 5 if the person permits  
12                  the firearms, ammunition, or other weapons to be possessed, accessed or used  
13                  by the person who relinquished the firearm or by any other person not  
14                  authorized by law to do so.

15                  (c) A law enforcement agency or an approved federally licensed firearms  
16                  dealer who takes possession of a firearm, ammunition, or other weapon  
17                  pursuant to subdivision (b)(1) of this section shall photograph, catalogue, and  
18                  store the item in accordance with standards and guidelines established by the  
19                  Department of Public Safety pursuant to subdivision (h)(3) of this section. A  
20                  firearm, ammunition, or other weapon shall not be taken into possession

4/10/2014 – EBF/BNH - 3:46 PM

DRAFT FOR DISCUSSION PURPOSES ONLY

FEES/CAPS TO BE DETERMINED BY SENATE FINANCE COMMITTEE

1 pursuant to this section if it is being or may be used as evidence in a pending  
2 criminal matter.

3 (d)(1) A law enforcement agency or an approved federally licensed  
4 firearms dealer who stores firearms, ammunition, or weapons pursuant to  
5 subsection (d) of this section may charge the owner:

6 (A) a reasonable storage fee, not to exceed \$X.00 per firearm per  
7 week or part thereof; and

8 (B) a reasonable transport, processing, and retrieval fee, as may be  
9 applicable, not to exceed \$X.00 in total per relinquishment order.

10 (2)(A) Total fees imposed pursuant to this subsection per owner per  
11 relinquishment order shall not exceed \$X.00 over a 365-day period unless:

12 (i) the parties agree to a greater fee; and

13 (ii) a greater fee is necessary to cover actual costs.

14 (B) As used in this subdivision, “actual costs” means expenses  
15 directly related to taking possession, transporting, processing, storing,  
16 retrieving, and selling the item pursuant to this section and shall not include  
17 costs associated with overhead expenses of the facility.

18 (3) Fees permitted by this subsection shall not begin to accrue until after  
19 the Court issues a final relief from abuse order pursuant to 15 V.S.A. § 1103.

20 (e) Nothing in this section shall be construed to prohibit the lawful sale of  
21 firearms or other items.

4/10/2014 – EBF/BNH - 3:46 PM

DRAFT FOR DISCUSSION PURPOSES ONLY

FEES/CAPS TO BE DETERMINED BY SENATE FINANCE COMMITTEE

1       (f)(1) A law enforcement agency or an approved federally licensed firearms  
2       dealer who takes possession of firearms, ammunition, or weapons for storage  
3       purposes pursuant to this section shall not release the item to the owner without  
4       a court order unless the item is to be sold pursuant to subdivision (2)(A) of this  
5       subsection. If a court orders the release of firearms, ammunition, or weapons  
6       stored under this section, the law enforcement agency or firearms dealer in  
7       possession of the item shall make it available to the owner within three  
8       business days of receipt of the order and in a manner consistent with federal  
9       law. The Supreme Court may promulgate rules under 12 V.S.A. § 1 for  
10       judicial proceedings under this subsection.

11       (2)(A)(i) If the owner fails to retrieve the firearm, ammunition, or  
12       weapon and pay the applicable storage fee within 90 days of the court order  
13       releasing the item, or if the owner fails to pay the storage fee for 90 days in  
14       violation of the applicable fee schedule, the firearm, ammunition, or weapon  
15       may be sold for fair market value. Title to the item shall pass to the law  
16       enforcement agency or firearms dealer for the purpose of transferring  
17       ownership.

18       (ii) The law enforcement agency or firearms dealer shall make a  
19       reasonable effort to notify the owner of the sale before it occurs. In no event  
20       shall the sale occur until after the Court issues a final relief from abuse order  
21       pursuant to 15 V.S.A. § 1103.

4/10/2014 – EBF/BNH - 3:46 PM

DRAFT FOR DISCUSSION PURPOSES ONLY

FEES/CAPS TO BE DETERMINED BY SENATE FINANCE COMMITTEE

1                    (iii) As used in this subdivision, “reasonable effort” shall include  
2                    providing notice to the owner at least 21 days prior to the date of the auction  
3                    sale pursuant to Rule 4 of the Vermont Rules of Civil Procedure.

4                    (B) Proceeds from the sale of a firearm, ammunition, or weapon  
5                    pursuant to subdivision (A) of this subdivision (2) shall be apportioned as  
6                    follows:

7                    (i) Unpaid storage fees and associated costs, including the costs of  
8                    sale and of locating the owner, shall be paid to the law enforcement agency or  
9                    firearms dealer who incurred the cost.

10                   (ii) Any proceeds remaining after payment is made to the law  
11                   enforcement agency or firearms dealer pursuant to subdivision (i) of this  
12                   subdivision (B) shall be paid to the original owner.

13                   (g) A law enforcement agency or an approved federally licensed firearms  
14                   dealer shall be immune from civil or criminal liability for any damage or  
15                   deterioration of firearms, ammunition, or weapons stored or transported  
16                   pursuant to subsection (c) of this section. This subsection shall not apply if the  
17                   damage or deterioration occurred as a result of recklessness, gross negligence,  
18                   or intentional misconduct by the law enforcement agency or firearms dealer.

19                   (h) The Department of Public Safety shall be responsible for the  
20                   implementation of and establishment of standards and guidelines to carry out  
21                   this section. To carry out this responsibility, the Department shall:

4/10/2014 – EBF/BNH - 3:46 PM

DRAFT FOR DISCUSSION PURPOSES ONLY

FEES/CAPS TO BE DETERMINED BY SENATE FINANCE COMMITTEE

1       (1) establish minimum standards to be a qualified storage location and  
2       maintain a list of qualified storage locations including:

3               (A) federally licensed firearms dealers who annually certify  
4       compliance with the Department's standards to receive firearms, ammunition,  
5       or other weapons pursuant to subdivision (b)(2) of this section; and

6               (B) cooperating law enforcement agencies;

7       (2) establish a fee schedule consistent with the fees established in this  
8       section for the transportation, processing, storage, and retrieval of firearms,  
9       ammunition, and other weapons pursuant to this section;

10       (3) establish standards and guidelines to provide for the transportation  
11       and storage of firearms, ammunition and other weapons pursuant to this  
12       section;

13       (4) establish a process by which an owner who has failed to make  
14       storage fee payments may become current on the payment schedule in order to  
15       avoid a sale of the stored item or items; and

16       (5) report on January 15, 2015 and annually thereafter to the House and  
17       Senate Committees on Judiciary on the status of the program.

(Draft No. 4.1 – H.735)

Page 8 of 8

4/10/2014 – EBF/BNH - 3:46 PM

DRAFT FOR DISCUSSION PURPOSES ONLY

FEES/CAPS TO BE DETERMINED BY SENATE FINANCE COMMITTEE

1 (Committee vote: \_\_\_\_\_)

2 \_\_\_\_\_

3 Senator \_\_\_\_\_

4 FOR THE COMMITTEE

5