

1 SB128  
2 147035-1  
3 By Senator Whatley  
4 RFD: Agriculture, Conservation, and Forestry  
5 First Read: 05-FEB-13

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8 SYNOPSIS: This bill would require the Commissioner of  
9 the Department of Agriculture and Industries to  
10 maintain a permanent record of all abandoned and  
11 stolen personal property recovered by the  
12 department.

13 The bill would authorize the commissioner to  
14 sell or destroy certain abandoned, stolen, or  
15 unclaimed firearms.

16 The bill would authorize the commissioner to  
17 sell certain abandoned, stolen, or unclaimed  
18 property.

19 The bill would also provide for the  
20 disposition of any proceeds from the sale of any  
21 abandoned, stolen, or unclaimed property or  
22 firearms to the Agricultural Fund.

23  
24 A BILL  
25 TO BE ENTITLED  
26 AN ACT  
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1                   Relating to the Department of Agriculture and  
2                   Industries; to require the Commissioner of the Department of  
3                   Agriculture and Industries to maintain certain records related  
4                   to abandoned and stolen personal property recovered by the  
5                   department; to authorize the commissioner to sell or destroy  
6                   certain abandoned, stolen, or unclaimed firearms; to authorize  
7                   the commissioner to sell certain abandoned, stolen, or  
8                   unclaimed property at a public auction; to provide for notice  
9                   to owners of property; to provide procedures for the public  
10                  auction; and to provide for the disposition of proceeds from  
11                  the sale of property.

12                 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13                         Section 1. (a) The Commissioner of the Department of  
14                         Agriculture and Industries shall keep and maintain a permanent  
15                         record of all abandoned and stolen personal property recovered  
16                         by the department. These records shall state the description  
17                         of the property, the date of recovery of the property, the  
18                         serial or other identifying number of the property, and the  
19                         place of recovery of the property. The records shall be open  
20                         to public inspection during the department's normal operating  
21                         hours.

22                                 (b) All abandoned or stolen property recovered by  
23                                 the department shall be stored in a suitable place to protect  
24                                 the property from deterioration.

25                                 Section 2. If the abandoned and stolen personal  
26                                 property is of a perishable nature and reasonable attempts to  
27                                 locate and identify the owner of the property are not

1 successful, the property may be sold at once without notice.  
2 The commissioner shall attempt to obtain the best possible  
3 price for the property. The proceeds of such a sale shall be  
4 held in a separate account for a period of six months for the  
5 owner. During this period, the proceeds shall be paid to the  
6 owner upon demand, less any cost of recovery, storage,  
7 maintenance, and sale. If the proceeds are not claimed within  
8 six months, after deducting and paying all expenses incurred  
9 in the recovery, storage, maintenance, and sale of the  
10 property, the net funds shall be paid into the State Treasury  
11 to the credit of the Agricultural Fund.

12 Section 3. (a) The commissioner shall keep and  
13 maintain a separate permanent record of all abandoned and  
14 stolen firearms recovered by the department which are not  
15 subject to disposition by general law. The records shall state  
16 the description of the firearm, the date of recovery of the  
17 firearm, the serial or other identifying number, if any, of  
18 the firearm, and the place of recovery of the firearm. The  
19 term "firearm" as used in this act shall have the same meaning  
20 as defined in Section 13A-8-1 of the Code of Alabama 1975.

21 (b) Unless otherwise provided by law, the  
22 commissioner may sell or destroy these firearms if the owner  
23 of the firearm does not claim the firearm within six months of  
24 the date the department obtained it.

25 (c) The commissioner may sell the firearms only to  
26 gun dealers who have held an active business license in this  
27 state for at least one year immediately prior to the date of

1 the sale. The commissioner shall establish a procedure to  
2 notify gun dealers of a sale. A firearm shall be sold to the  
3 gun dealer submitting the highest sealed bid. All sales shall  
4 be on a cash basis. The proceeds of the sale, after deducting  
5 and paying all expenses incurred in the recovery, maintenance,  
6 and sale of the firearms shall be paid into the State Treasury  
7 to the credit of the Agricultural Fund.

8 (d) The commissioner may establish a procedure to  
9 destroy firearms and may expend necessary department funds for  
10 that purpose.

11 Section 4. (a) At least every six months, the  
12 commissioner shall sell at public auction to the highest  
13 bidder for cash all abandoned or stolen personal property,  
14 other than firearms, which has been recovered by the  
15 department and has remained unclaimed by the rightful owner  
16 during the preceding six-month period.

17 (b) Prior to the sale, notice shall be given by  
18 publication in a newspaper of general circulation in this  
19 state once a week for two successive weeks or by posting a  
20 notice in a conspicuous place at the Department of Agriculture  
21 and Industries' office in Montgomery for a period of at least  
22 20 days. The notice shall contain the place, date, and time of  
23 each auction and a description of each item of personal  
24 property to be sold at the auction. If publication of notice  
25 is made in the newspaper, the first notice shall run at least  
26 20 days prior to the auction.

1           Section 5. The owner of any abandoned or stolen  
2 personal property recovered by the department, including  
3 firearms, may claim the property at any time prior to its sale  
4 by submitting sufficient proof of ownership as determined by  
5 the commissioner and by paying any reasonable expenses  
6 incurred in the recovery of the property, its maintenance,  
7 storage, and a pro rata share of the costs, if any, of  
8 publication of notice of the sale of the property.

9           Section 6. If property is sold at public auction, as  
10 provided in this act, a notation in the storage record book  
11 shall be made of the sale and of the amount received for the  
12 property. The person making the sale may reject any and all  
13 bids if the amount bid is unreasonably low and may continue  
14 the sale, from time to time, if no bidders are present.

15           Section 7. The proceeds from the sale of property at  
16 an auction conducted under the authority of this act, after  
17 deducting and paying all expenses incurred in the recovery,  
18 storage, maintenance, and sale of property, shall be paid into  
19 the State Treasury to the credit of the Agricultural Fund.

20           Section 8. This act shall become effective on the  
21 first day of the third month following its passage and  
22 approval by the Governor, or its otherwise becoming law.