

**HOUSE BILL No. 2782**

By Committee on Taxation

3-16

1 AN ACT concerning criminal procedure; relating to disposition of firearms  
2 seized by law enforcement; amending K.S.A. 2017 Supp. 22-2512 and  
3 repealing the existing section.  
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2017 Supp. 22-2512 is hereby amended to read as  
7 follows: 22-2512. (a) Property seized under a search warrant or validly  
8 seized without a warrant shall be safely kept by the officer seizing the  
9 same unless otherwise directed by the magistrate, and shall be so kept as  
10 long as necessary for the purpose of being produced as evidence on any  
11 trial. The property seized may not be taken from the officer having it in  
12 custody so long as it is or may be required as evidence in any trial. The  
13 officer seizing the property shall give a receipt to the person detained or  
14 arrested particularly describing each article of property being held and  
15 shall file a copy of such receipt with the magistrate before whom the  
16 person detained or arrested is taken. Where seized property is no longer  
17 required as evidence in the prosecution of any indictment or information,  
18 the court which has jurisdiction of such property may transfer the same to  
19 the jurisdiction of any other court, including courts of another state or  
20 federal courts, where it is shown to the satisfaction of the court that such  
21 property is required as evidence in any prosecution in such other court.

22 (b) (1) Notwithstanding the provisions of subsection (a) and with the  
23 approval of the affected court, any law enforcement officer who seizes  
24 hazardous materials as evidence related to a criminal investigation may  
25 collect representative samples of such hazardous materials, and lawfully  
26 destroy or dispose of, or direct another person to lawfully destroy or  
27 dispose of the remaining quantity of such hazardous materials.

28 (2) In any prosecution, representative samples of hazardous materials  
29 accompanied by photographs, videotapes, laboratory analysis reports or  
30 other means used to verify and document the identity and quantity of the  
31 material shall be deemed competent evidence of such hazardous materials  
32 and shall be admissible in any proceeding, hearing or trial as if such  
33 materials had been introduced as evidence.

34 (3) As used in this section, the term "hazardous materials" means any  
35 substance which is capable of posing an unreasonable risk to health, safety  
36 and property. It shall include any substance which by its nature is

1 explosive, flammable, corrosive, poisonous, radioactive, a biological  
2 hazard or a material which may cause spontaneous combustion. It shall  
3 include, but not be limited to, substances listed in the table of hazardous  
4 materials contained in the code of federal regulations title 49 and national  
5 fire protection association's fire protection guide on hazardous materials.

6 (4) The provisions of this subsection shall not apply to ammunition  
7 and components thereof.

8 (c) When property seized is no longer required as evidence, it shall be  
9 disposed of as follows:

10 (1) Property stolen, embezzled, obtained by false pretenses, or  
11 otherwise obtained unlawfully from the rightful owner thereof shall be  
12 restored to the owner;

13 (2) money shall be restored to the owner unless it was contained in a  
14 slot machine or otherwise used in unlawful gambling or lotteries, in which  
15 case it shall be forfeited, and shall be paid to the state treasurer pursuant to  
16 K.S.A. 20-2801, and amendments thereto;

17 (3) property which is unclaimed or the ownership of which is  
18 unknown shall be sold at public auction to be held by the sheriff and the  
19 proceeds, less the cost of sale and any storage charges incurred in  
20 preserving it, shall be paid to the state treasurer pursuant to K.S.A. 20-  
21 2801, and amendments thereto;

22 (4) articles of contraband shall be destroyed, except that any such  
23 articles the disposition of which is otherwise provided by law shall be  
24 dealt with as so provided and any such articles the disposition of which is  
25 not otherwise provided by law and which may be capable of innocent use  
26 may in the discretion of the court be sold and the proceeds disposed of as  
27 provided in subsection (c)(3);

28 (5) explosives, bombs and like devices, which have been used in the  
29 commission of crime, may be returned to the rightful owner, or in the  
30 discretion of the court having jurisdiction of the property, destroyed or  
31 forfeited to the Kansas bureau of investigation;

32 (6) (A) except as provided in subsections (c)(6)(B) and (d), any  
33 weapon or ammunition, in the discretion of the court having jurisdiction of  
34 the property, shall be:

35 (i) Forfeited to the law enforcement agency seizing the weapon for  
36 use within such agency, for sale to a properly licensed federal firearms  
37 dealer, for trading to a properly licensed federal firearms dealer for other  
38 new or used firearms or accessories for use within such agency ~~or~~, for  
39 trading to another law enforcement agency for that agency's use *or for*  
40 *destruction by such law enforcement agency*;

41 (ii) forfeited to the Kansas bureau of investigation for law  
42 enforcement, testing or comparison by the Kansas bureau of investigation  
43 forensic laboratory;

1 (iii) forfeited to a county regional forensic science center, or other  
2 county forensic laboratory for testing, comparison or other forensic  
3 science purposes; or

4 (iv) forfeited to the Kansas department of wildlife, parks and tourism  
5 for use pursuant to the conditions set forth in K.S.A. 32-1047, and  
6 amendments thereto.

7 (B) Except as provided in subsection (d), any weapon which cannot  
8 be forfeited pursuant to subsection (c)(6)(A) due to the condition of the  
9 weapon, and any weapon which was used in the commission of a felony as  
10 described in K.S.A. 2017 Supp. 21-5401, 21-5402, 21-5403, 21-5404 or  
11 21-5405, and amendments thereto, shall be destroyed.

12 (7) controlled substances forfeited for violations of K.S.A. 2017  
13 Supp. 21-5701 through 21-5717, and amendments thereto, shall be dealt  
14 with as provided under K.S.A. 60-4101 through 60-4126, and amendments  
15 thereto;

16 (8) unless otherwise provided by law, all other property shall be  
17 disposed of in such manner as the court in its sound discretion shall direct.

18 (d) If a weapon is seized from an individual and the individual is not  
19 convicted of or adjudicated as a juvenile offender for the violation for  
20 which the weapon was seized, then within 30 days after the declination or  
21 conclusion of prosecution of the case against the individual, including any  
22 period of appeal, the law enforcement agency that seized the weapon shall  
23 verify that the weapon is not stolen, and upon such verification shall notify  
24 the person from whom it was seized that the weapon may be retrieved.  
25 Such notification shall include the location where such weapon may be  
26 retrieved.

27 (e) If weapons are sold as authorized by subsection (c)(6)(A), the  
28 proceeds of the sale shall be credited to the asset seizure and forfeiture  
29 fund of the seizing agency.

30 (f) For purposes of this section, the term "weapon" means a weapon  
31 described in K.S.A. 2017 Supp. 21-6301, and amendments thereto.

32 Sec. 2. K.S.A. 2017 Supp. 22-2512 is hereby repealed.

33 Sec. 3. This act shall take effect and be in force from and after its  
34 publication in the statute book.