

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 538

Introduced by Karpisek, 32.

Read first time January 18, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to criminal procedure; to amend section 29-820,
2 Reissue Revised Statutes of Nebraska; to change
3 provisions relating to the disposition of firearms; and
4 to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-820, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 29-820 (1) Unless other disposition is specifically
4 provided by law, when property seized or held is no longer required
5 as evidence, it shall be disposed of by the law enforcement agency on
6 such showing as the law enforcement agency may deem adequate, as
7 follows:

8 (a) ~~Property~~ Except as provided in subdivision (1)(f) of
9 this section, property stolen, embezzled, obtained by false
10 pretenses, or otherwise obtained unlawfully from the rightful owner
11 thereof shall be restored to the owner;

12 (b) Money shall be restored to the owner unless it was
13 used in unlawful gambling or lotteries or it was used or intended to
14 be used to facilitate a violation of Chapter 28, article 4, in which
15 case the money shall be forfeited and disposed of as required by
16 Article VII, section 7, of the Constitution of Nebraska;

17 (c) Property which is unclaimed or the ownership of which
18 is unknown shall be sold at a public auction held by the officer
19 having custody thereof and the net proceeds disposed of as provided
20 in subdivision (b) of this subsection, as shall any money which is
21 unclaimed or the ownership of which is unknown;

22 (d) Except as provided in subdivision (2)(b) of this
23 section, articles of contraband shall be destroyed; ~~and~~

24 (e) Except as provided in subdivision (2)(a) of this
25 section, firearms, ammunition, explosives, bombs, and like devices

1 which have been used in the commission of crime shall be destroyed;
2 and -

3 (f) Firearms which have come into the law enforcement
4 agency's possession other than through a seizure and (i) have not
5 been used in the commission of crime, (ii) have not been defaced or
6 altered in any manner that violates state or federal law, and (iii)
7 may have a lawful use shall be restored to the owners.

8 (2) When the following property is seized or held and is
9 no longer required as evidence, such property shall be disposed of on
10 order of the court as the court may deem adequate:

11 (a) ~~Firearms~~ All other firearms not included under
12 subdivision (1)(f) of this section which may have a lawful use; and

13 (b) Goods which are declared to be contraband but may
14 reasonably be returned to a condition or state in which such goods
15 may be lawfully used, possessed, or distributed by the public.

16 (3) When any animal as defined by section 28-1008 is
17 seized or held and is no longer required as evidence, such animal may
18 be disposed of in such manner as the court may direct. The court may
19 consider adoption alternatives through humane societies or comparable
20 institutions and the protection of such animal's welfare. For a
21 humane society or comparable institution to be considered as an
22 adoption alternative under this subsection, it must first be licensed
23 by the Department of Agriculture as having passed the inspection
24 requirements in the Commercial Dog and Cat Operator Inspection Act
25 and paid the fee for inspection under the act. The court may prohibit

1 an adopting or purchasing party from selling such animal for a period
2 not to exceed one year.

3 (4) Unless otherwise provided by law, all other property
4 shall be disposed of in such manner as the court in its sound
5 discretion shall direct.

6 Sec. 2. Original section 29-820, Reissue Revised Statutes
7 of Nebraska, is repealed.