
By: Delegates Fulton, Branch, and C. Mitchell

Introduced and read first time: February 16, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Agencies - Disposition of Abandoned, Confiscated, and Recovered**
3 **Property**

4 FOR the purpose of requiring the sheriff of a county and the chief of a certain local law
5 enforcement agency to establish and administer regulations providing for the return
6 of certain property that has been abandoned, confiscated, or recovered to the
7 person entitled to its possession, within a certain time period, and subject to certain
8 conditions; requiring the establishment of certain other regulations concerning the
9 disposition of certain property in the possession of certain law enforcement
10 agencies; requiring the Department of State Police to return certain property that
11 has been in the possession of the Department for a certain period of time; and
12 generally relating to the disposition of property that has been abandoned,
13 confiscated, or recovered.

14 BY adding to

15 Article 41 - Governor - Executive and Administrative Departments
16 Section 4-107
17 Annotated Code of Maryland
18 (1993 Replacement Volume and 1995 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article 88B - Department of State Police
21 Section 27
22 Annotated Code of Maryland
23 (1995 Replacement Volume)

24 BY repealing and reenacting, with amendments,

25 Article - Courts and Judicial Proceedings
26 Section 2-311
27 Annotated Code of Maryland
28 (1995 Replacement Volume and 1995 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

30 MARYLAND, That the Laws of Maryland read as follows:

1 **Article 41 - Governor - Executive and Administrative Departments**

2 4-107.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) "CHIEF" MEANS THE SUPERINTENDENT, COMMISSIONER, OR CHIEF
6 OF POLICE OF A LOCAL LAW ENFORCEMENT AGENCY, OR THE CHIEF'S DESIGNEE.

7 (3) (I) "LOCAL LAW ENFORCEMENT AGENCY" MEANS A
8 GOVERNMENTAL POLICE FORCE, SECURITY FORCE, OR OTHER AGENCY OF A
9 COUNTY OR MUNICIPALITY THAT HAS BY STATUTE, ORDINANCE, OR COMMON LAW,
10 THE AUTHORITY FOR ENFORCING THE GENERAL CRIMINAL LAWS OF THIS STATE.

11 (II) "LOCAL LAW ENFORCEMENT AGENCY" DOES NOT INCLUDE A
12 SHERIFF'S OFFICE.

13 (B) THE CHIEF OF A LOCAL LAW ENFORCEMENT AGENCY SHALL ADOPT AND
14 ADMINISTER REGULATIONS IN ACCORDANCE WITH THIS SECTION FOR DISPOSING
15 OF ABANDONED, LAWFULLY CONFISCATED, OR RECOVERED PROPERTY THAT IS IN
16 THE POSSESSION OF THE LOCAL LAW ENFORCEMENT AGENCY.

17 (C) (1) THE REGULATIONS SHALL CONTAIN PROVISIONS SPECIFIED IN THIS
18 SUBSECTION.

19 (2) AFTER PROPERTY HAS BEEN IN THE POSSESSION OF THE SHERIFF
20 FOR A PERIOD OF 30 DAYS, THE PROPERTY SHALL BE RETURNED TO THE PERSON
21 ENTITLED TO ITS POSSESSION IF:

22 (I) THE IDENTITY AND LOCATION OF THE PERSON CAN BE
23 ASCERTAINED BY THE EXERCISE OF REASONABLE DILIGENCE; AND

24 (II) THE PROPERTY IS NOT SUBJECT TO FORFEITURE UNDER
25 ARTICLE 27, § 36C, § 36H-4, OR § 297 OF THE CODE OR NEEDED AS EVIDENCE IN
26 CONNECTION WITH ANY OTHER CRIMINAL INVESTIGATION OR COURT
27 PROCEEDING.

28 (3) AFTER PROPERTY HAS BEEN IN THE POSSESSION OF THE SHERIFF
29 FOR A PERIOD OF 1 YEAR, NOTICE OF THE SALE OF THE PROPERTY SHALL BE GIVEN
30 BY REGISTERED OR CERTIFIED MAIL TO THOSE PERSONS ENTITLED TO ITS
31 POSSESSION AND TO THOSE LIENHOLDERS WHOSE NAMES AND ADDRESSES CAN BE
32 ASCERTAINED BY THE EXERCISE OF REASONABLE DILIGENCE;

33 (4) THE PROPERTY MAY BE SOLD AT PUBLIC AUCTION AFTER A
34 DESCRIPTION OF THE PROPERTY AND THE TIME, PLACE, AND TERMS OF THE SALE
35 HAVE BEEN PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
36 COUNTY IN EACH OF 2 SUCCESSIVE WEEKS;

37 (5) THE AMOUNT RECEIVED FROM THE SALE OF PROPERTY IN
38 ACCORDANCE WITH THIS SECTION SHALL BE DISTRIBUTED IN THE FOLLOWING
39 ORDER OF PRIORITY:

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1 (I) TO THE SHERIFF, IN AN AMOUNT EQUAL TO THE EXPENSE OF
2 THE SALE AND ALL EXPENSES INCURRED WHILE THE PROPERTY WAS IN THE
3 SHERIFF'S CUSTODY;

4 (II) TO LIENHOLDERS IN ORDER OF THEIR PRIORITY; AND

5 (III) SUBJECT TO THE PROVISIONS OF PARAGRAPH (5) OF THIS
6 SUBSECTION, TO THE GENERAL FUND OF THE COUNTY; AND

7 (6) AT ANY TIME WITHIN 3 YEARS FROM THE DATE OF THE SALE OF
8 THE PROPERTY, ANY PERSON SUBMITTING SATISFACTORY PROOF OF THE PERSON'S
9 RIGHT TO THE POSSESSION OF THE PROPERTY SHALL BE PAID, WITHOUT INTEREST,
10 THE AMOUNT DISTRIBUTED TO THE GENERAL FUND PURSUANT TO PARAGRAPH (4)
11 OF THIS SUBSECTION, AND AFTER THE EXPIRATION OF 3 YEARS FROM THE DATE OF
12 THE SALE, ANY CLAIMS SHALL BE ABSOLUTELY BARRED.

13 **Article 88B - Department of State Police**

14 27.

15 (a) [Any personal property which comes into the possession of the Department
16 shall be held until the Department determines that its custody is no longer necessary in
17 connection with any prosecution. As used in] IN this section, "personalproperty" does
18 not include contraband or personal property purchased or otherwise acquired for use by
19 the Department.

20 (b) [After expiration of the period referred to in subsection (a), personal
21 property shall be delivered to the person who satisfactorily establishes his right to its
22 possession and gives a proper receipt therefor.] PERSONAL PROPERTY THAT HAS BEEN
23 IN THE POSSESSION OF THE DEPARTMENT FOR A PERIOD OF 30 DAYS SHALL BE
24 RETURNED TO THE PERSON ENTITLED TO ITS POSSESSION IF:

25 (1) THE IDENTITY AND LOCATION OF THE PERSON CAN BE
26 ASCERTAINED BY THE EXERCISE OF REASONABLE DILIGENCE; AND

27 (2) THE PROPERTY IS NOT SUBJECT TO FORFEITURE UNDER ARTICLE
28 27, § 36C, § 36H-4, OR § 297 OF THE CODE OR NEEDED AS EVIDENCE IN CONNECTION
29 WITH ANY OTHER CRIMINAL INVESTIGATION OR COURT PROCEEDING.

30 (c) At any time after personal property has been in the possession of the
31 Department for a period of 6 months and its custody is no longer necessary for the
32 purpose referred to in subsection (a), notice of the sale of such property may be given by
33 registered or certified mail to those persons entitled to its possession and to those
34 lienholders whose names and addresses can be ascertained by the exercise of reasonable
35 diligence. Thereafter, such property may be sold at public auction after a description of
36 such personal property and the time, place, and terms of such sale have been published in
37 a newspaper of general circulation in Baltimore City in each of two successive weeks. The
38 terms and manner of sale may be established by rule. The certificate of the Department
39 that personal property has been sold pursuant to this section shall constitute sufficient
40 evidence of title to such property for all purposes, including the right to obtain a
41 certificate of title or registration from an appropriate department of the State.

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1 (d) The amount received from the sale of personal property in accordance with
2 this section shall be distributed in the following order of priority (1) to the Department,
3 in an amount equal to the expense of sale and all expenses incurred while the personal
4 property was in its custody, (2) to lien holders in order of their priority, and (3) subject to
5 the provisions of subsection (e), to the General Fund of the State of Maryland.

6 (e) At any time within three years from the date of such sale, any person
7 submitting satisfactory proof of his right to the possession of such personal property shall
8 be paid, without interest, the amount distributed to the General Fund pursuant to
9 subsection (d)(3). After the expiration of three years from the date of such sale, such
10 claims shall be absolutely barred.

11 (f) Nothing in this section shall be construed to create or recognize any cause,
12 action or defense or to abridge any immunity now or hereafter held by the Department,
13 the Secretary or any employee.

14 **Article - Courts and Judicial Proceedings**

15 2-311.

16 (a) The sheriff of a county [may] SHALL establish and administer [reasonable
17 guidelines] REGULATIONS in accordance with this section for disposing of abandoned,
18 lawfully confiscated, or recovered property that is in the possession of the sheriff's office.

19 (b) The [guidelines] REGULATIONS shall provide that:

20 (1) AFTER PROPERTY HAS BEEN IN THE POSSESSION OF THE SHERIFF
21 FOR A PERIOD OF 30 DAYS, THE PROPERTY SHALL BE RETURNED TO THE PERSON
22 ENTITLED TO ITS POSSESSION IF:

23 (I) THE IDENTITY AND LOCATION OF THE PERSON CAN BE
24 ASCERTAINED BY THE EXERCISE OF REASONABLE DILIGENCE; AND

25 (II) THE PROPERTY IS NOT SUBJECT TO FORFEITURE UNDER
26 ARTICLE 27, § 36C, § 36H-4, OR § 297 OF THE CODE OR NEEDED AS EVIDENCE IN
27 CONNECTION WITH ANY OTHER CRIMINAL INVESTIGATION OR COURT
28 PROCEEDING.

29 [(1)] (2) After property has been in the possession of the sheriff for a
30 period of one year, notice of the sale of the property shall be given by registered or
31 certified mail to those persons entitled to its possession and to those lienholders whose
32 names and addresses can be ascertained by the exercise of reasonable diligence;

33 [(2)] (3) The property may be sold at public auction after a description of
34 the property and the time, place, and terms of the sale have been published in a
35 newspaper of general circulation in the county in each of 2 successive weeks;

36 [(3)] (4) The amount received from the sale of property in accordance with
37 this section shall be distributed in the following order of priority:

38 (i) To the sheriff, in an amount equal to the expense of the sale and
39 all expenses incurred while the property was in the sheriff's custody;

40 (ii) To lienholders in order of their priority; and

5

1 (iii) Subject to the provisions of item [(4)] (5) of this subsection, to the
2 general fund of the county; and

3 [(4)] (5) At any time within 3 years from the date of the sale of the
4 property, any person submitting satisfactory proof of the person's right to the possession
5 of the property shall be paid, without interest, the amount distributed to the general fund
6 pursuant to item [(3)] (4) of this subsection, and after the expiration of 3 years from the
7 date of the sale, any claims shall be absolutely barred.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 1996.