

SENATE BILL 974

E4

(71r0118)

ENROLLED BILL

— Judicial Proceedings / Judiciary —

Introduced by **Chair, Judicial Proceedings Committee (By Request - Departmental - State Police)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Department of State Police - Disposal of Property - Holding Period**

3 FOR the purpose of providing that certain requirements relating to disposal of personal
4 property in the possession of the Department of State Police do not apply to
5 personal property retained by the Department for use as evidence in a criminal
6 proceeding and do not supersede certain provisions for seizure and forfeiture;
7 altering the period of time that certain property is required to be in the
8 possession of the Department of State Police before the Department is required
9 to give certain notice of the sale of the property to certain persons and certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 lienholders; and generally relating to the disposal of property by the
2 Department of State Police.

3 BY repealing and reenacting, with amendments,
4 Article – Public Safety
5 Section 2–311
6 Annotated Code of Maryland
7 (2003 Volume and 2006 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article – Public Safety**

11 2–311.

12 (a) **(1)** This section does not apply to personal property purchased or
13 otherwise acquired for use by the Department or to contraband.

14 **(2) THIS SECTION DOES NOT APPLY TO PERSONAL PROPERTY**
15 **RETAINED BY THE DEPARTMENT FOR USE AS EVIDENCE IN A CRIMINAL**
16 **PROSECUTION.**

17 **(3) THIS SECTION DOES NOT SUPERSEDE THE PROVISIONS FOR**
18 **SEIZURE AND FORFEITURE CONTAINED IN TITLES 12 AND 13 OF THE CRIMINAL**
19 **PROCEDURE ARTICLE.**

20 (b) ~~The~~ **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
21 **SUBSECTION, THE** Department shall hold personal property that comes into the
22 possession of the Department until the Department determines that the property is no
23 longer needed in connection with a prosecution.

24 **(2) PERSONAL PROPERTY THAT IS USED AS EVIDENCE IN A**
25 **CRIMINAL PROSECUTION SHALL BE RETAINED BY THE DEPARTMENT IN THE**
26 **SAME MANNER AS OTHER EVIDENCE RETAINED BY THE DEPARTMENT.**

27 (c) After the Department determines that personal property is no longer
28 needed in connection with a prosecution, the Department shall deliver the property to
29 the person who satisfactorily establishes the right to possession of the property and
30 gives a proper receipt for the property.

1 (d) (1) At any time after personal property has been in the possession of
2 the Department for [6] 3 months and the Department determines that the property is
3 no longer needed in connection with a prosecution, the Department shall:

4 (i) give notice of the sale of the property by registered or
5 certified mail to those persons entitled to its possession and to those lienholders whose
6 names and addresses can be ascertained by the exercise of reasonable diligence; and

7 (ii) publish a description of the property and the time, place,
8 and terms of the sale of the property in a newspaper of general circulation in
9 Baltimore City in each of two successive weeks.

10 (2) After complying with the requirements of paragraph (1) of this
11 subsection, the Department may sell the property at public auction.

12 (3) The terms and manner of sale may be established by rule.

13 (e) The certificate of the Department that personal property has been sold
14 under this section is sufficient evidence of title to the property for all purposes,
15 including the right to obtain a certificate of title or registration from an appropriate
16 unit of the State.

17 (f) (1) The amount received from the sale of personal property in
18 accordance with this section shall be distributed in the following order of priority:

19 (i) first, to the Department in an amount equal to the expense
20 of sale and all expenses incurred while the property was in the possession of the
21 Department;

22 (ii) second, to lienholders in order of their priority; and

23 (iii) third, to the General Fund subject to paragraphs (2) and (3)
24 of this subsection.

25 (2) At any time within 3 years after the date of a sale under this
26 section, a person who submits satisfactory proof of the right to possession of the
27 property shall be paid, without interest, the amount distributed to the General Fund
28 under paragraph (1)(iii) of this subsection.

29 (3) A claim under paragraph (2) of this subsection is barred if more
30 than 3 years has passed since the date of a sale under this section.

1 (g) This section does not create or recognize any cause, action, or defense or
2 abridge any immunity now or in the future held by the Department, the Secretary, or
3 an employee of the Department.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2007.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.