

## CHAPTER 210

(Senate Bill 974)

AN ACT concerning

### Department of State Police – Disposal of Property – Holding Period

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

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 2–311

Annotated Code of Maryland

(2003 Volume and 2006 Supplement)

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

### Article – Public Safety

2–311.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Approved by the Governor, April 24, 2007.**