

CHAPTER 451

(House Bill 1067)

AN ACT concerning

Local Law Enforcement Agencies – Disposal of Personal Property

FOR the purpose of requiring local law enforcement agencies to hold certain personal property that comes into their possession until certain determinations are made, subject to a certain exception; establishing a procedure for local law enforcement agencies to notify the owner of the property and for the owner of the property to secure the release of the property in a certain manner within a certain period of time; authorizing a local law enforcement agency to sell certain personal property in a certain manner after a certain period of time; establishing that the amount received from the sale of personal property shall be distributed in a certain order of priority to certain entities; ~~requiring that a certain remaining amount from the sale of personal property that was in the possession of the Baltimore Police Department be divided equally among certain entities~~; providing that a person who submits certain proof of the right to possession of the property shall be paid a certain amount under certain circumstances; providing that a certain claim is barred after a certain period of time; providing for the interpretation of this Act; defining a certain term; and generally relating to the disposal of personal property in the possession of local law enforcement agencies.

BY adding to

Article – Public Safety

Section 3-505

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

3-505.

(A) IN THIS SECTION, “LOCAL LAW ENFORCEMENT AGENCY” MEANS THE POLICE DEPARTMENT OF A COUNTY OR MUNICIPAL CORPORATION IN THE STATE.

(B) (1) THIS SECTION DOES NOT APPLY TO PERSONAL PROPERTY PURCHASED OR OTHERWISE ACQUIRED FOR USE BY A LOCAL LAW ENFORCEMENT AGENCY OR TO CONTRABAND.

(2) THIS SECTION DOES NOT APPLY TO PERSONAL PROPERTY RETAINED BY A LOCAL LAW ENFORCEMENT AGENCY 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.

(C) (1) ~~THE~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE LOCAL LAW ENFORCEMENT AGENCY SHALL HOLD PERSONAL PROPERTY THAT COMES INTO THE POSSESSION OF THE LOCAL LAW ENFORCEMENT AGENCY UNTIL THE LOCAL LAW ENFORCEMENT AGENCY DETERMINES THAT:

~~(1)~~ (I) THE PROPERTY IS NO LONGER NEEDED IN CONNECTION WITH A PROSECUTION; OR

~~(2)~~ (II) IF THE PROPERTY IS NOT CONNECTED TO A PROSECUTION, RETENTION OF THE PROPERTY IS NO LONGER RELEVANT TO THE LOCAL LAW ENFORCEMENT AGENCY.

(2) PERSONAL PROPERTY THAT IS USED AS EVIDENCE IN A CRIMINAL PROSECUTION SHALL BE RETAINED BY A LOCAL LAW ENFORCEMENT AGENCY IN THE SAME MANNER AS OTHER EVIDENCE RETAINED BY THE AGENCY.

(D) (1) AFTER A LOCAL LAW ENFORCEMENT AGENCY DETERMINES THAT PERSONAL PROPERTY IS NO LONGER NEEDED IN CONNECTION WITH A PROSECUTION OR RETENTION OF THE PROPERTY IS NO LONGER RELEVANT TO THE LOCAL LAW ENFORCEMENT AGENCY, THE LOCAL LAW ENFORCEMENT AGENCY SHALL NOTIFY THE OWNER OF THE PROPERTY THAT THE LOCAL LAW ENFORCEMENT AGENCY IS IN POSSESSION OF THE PROPERTY.

(2) AFTER NOTIFICATION, THE OWNER OF THE PROPERTY HAS UP TO 30 DAYS TO SECURE THE IMMEDIATE RELEASE OF THE PROPERTY TO THE OWNER OR THE OWNER'S DESIGNEE WITH PROPER IDENTIFICATION.

(E) (1) AT ANY TIME AFTER PERSONAL PROPERTY HAS BEEN IN THE POSSESSION OF A LOCAL LAW ENFORCEMENT AGENCY FOR 3 MONTHS AND THE LOCAL LAW ENFORCEMENT AGENCY DETERMINES THAT THE PROPERTY IS NO LONGER NEEDED IN CONNECTION WITH A PROSECUTION OR RETENTION OF THE PROPERTY IS NO LONGER RELEVANT TO THE LOCAL LAW ENFORCEMENT AGENCY, THE LOCAL LAW ENFORCEMENT AGENCY 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 THE COUNTY OR MUNICIPAL CORPORATION IN EACH OF TWO SUCCESSIVE WEEKS.

(2) AFTER COMPLYING WITH THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION, THE LOCAL LAW ENFORCEMENT AGENCY MAY SELL THE PROPERTY AT PUBLIC AUCTION.

(3) THE TERMS AND MANNER OF SALE MAY BE ESTABLISHED BY RULE.

(F) THE CERTIFICATE OF THE LOCAL LAW ENFORCEMENT AGENCY 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.

(G) (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 LOCAL LAW ENFORCEMENT AGENCY IN AN AMOUNT EQUAL TO THE EXPENSE OF SALE AND ALL EXPENSES INCURRED

WHILE THE PROPERTY WAS IN THE POSSESSION OF THE LOCAL LAW ENFORCEMENT AGENCY;

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

(III) THIRD, TO THE GENERAL FUND OF THE COUNTY OR MUNICIPAL CORPORATION, SUBJECT TO PARAGRAPHS ~~(2), (3), AND (4)~~ (2) AND (3) OF THIS SUBSECTION.

~~(2) AFTER DISTRIBUTION OF THE AMOUNT RECEIVED FROM THE SALE OF PERSONAL PROPERTY THAT WAS IN THE POSSESSION OF THE BALTIMORE POLICE DEPARTMENT UNDER PARAGRAPH (1)(I) AND (II) OF THIS SUBSECTION, ANY REMAINING AMOUNT SHALL BE DIVIDED EQUALLY AMONG:~~

~~(I) THE POLICE ATHLETIC LEAGUE OF BALTIMORE CITY;~~

~~(II) THE BALTIMORE POLICE DEPARTMENT FOR EQUIPMENT AND EXPENDITURES; AND~~

~~(III) THE BALTIMORE CITY GENERAL FUND.~~

~~(3)~~ (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:

~~(I)~~ THE GENERAL FUND OF THE COUNTY OR MUNICIPAL CORPORATION UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION; ~~OR~~

~~(II) THE BALTIMORE CITY GENERAL FUND UNDER PARAGRAPH (2)(III) OF THIS SUBSECTION.~~

~~(4)~~ (3) A CLAIM UNDER PARAGRAPH ~~(3)~~ (2) OF THIS SUBSECTION IS BARRED IF MORE THAN 3 YEARS HAS PASSED SINCE THE DATE OF A SALE UNDER THIS SECTION.

(H) THIS SECTION DOES NOT CREATE OR RECOGNIZE ANY CAUSE, ACTION, OR DEFENSE OR ABRIDGE ANY IMMUNITY NOW OR IN THE FUTURE

HELD BY A LOCAL LAW ENFORCEMENT AGENCY OR AN EMPLOYEE OF A LOCAL LAW ENFORCEMENT AGENCY.

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

Approved by the Governor, May 8, 2007.