

MAINE STATE LEGISLATURE

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No. 1085

H.P. 803

House of Representatives, March 6, 2007

**An Act To Improve the Laws Concerning the Management by Law
Enforcement Agencies of Unclaimed, Lost or Stolen Personal
Property**

Submitted by the Department of Public Safety pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative GERZOFSKY of Brunswick.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 25 MRSA §3501**, as amended by PL 1983, c. 254, §1, is further amended
3 to read:

4 **§3501. Application of chapter**

5 This chapter ~~shall apply~~ applies to all personal property ~~of which possession that~~ is
6 transferred to a ~~police department or other~~ law enforcement agency of the State or any
7 political subdivision ~~thereof, of the State~~ under circumstances supporting a reasonable
8 belief that such property was abandoned, lost or stolen, or otherwise illegally possessed,
9 except property seized during search and retained and ultimately returned, destroyed or
10 otherwise disposed of pursuant to a court order or some other law hereafter applicable to
11 specific property or circumstance. This chapter ~~shall apply~~ applies to personal property
12 seized during search and retained ~~which that~~ is not offered or admitted as evidence and
13 ~~which that~~, after retention by a ~~police department or other~~ law enforcement agency,
14 becomes abandoned.

15 **Sec. 2. 25 MRSA §3502**, as enacted by PL 1975, c. 558, is amended to read:

16 **§3502. Custody and return of property believed to be abandoned, lost or stolen**

17 Such property believed to be abandoned, lost or stolen or otherwise illegally
18 possessed, as is covered by this chapter, ~~shall~~ must be retained in custody by the chief of
19 police or the principal official of the law enforcement agency, who shall make reasonable
20 inquiry and efforts to identify and notify the owner or other person entitled to possession
21 thereof, and shall return the property after such person provides reasonable and
22 satisfactory proof of ~~his~~ that person's ownership or right to possession and reimburses the
23 agency and others authorized to incur expenses by the agency for all reasonable expenses
24 of such custody. If the owner of such property or any other person entitled to possession
25 ~~thereof of the property~~ has not been identified ~~within~~ after at least 30 days from the initial
26 date of custody of such property by a law enforcement agency, the principal official of
27 such agency shall cause to be published, at least once in a newspaper of general
28 circulation in the county ~~wherein in which~~ such official has authority ~~or, in the state paper~~
29 a newspaper having statewide circulation in the case of a state law enforcement agency;
30 or on the law enforcement agency's publicly accessible website, a notice of ~~his~~ the law
31 enforcement agency's possession of such property and its inability to
32 ascertain the owner thereof. Such notice ~~shall~~ must also contain a brief description of the
33 property and a statement to the effect that, if the owner of such property or any other
34 person entitled to possession thereof has not claimed such property within ~~5 months~~ 30
35 days of the date of such published notice, such property ~~will either~~ must be surrendered to
36 the person who found it, if any, ~~or be~~ sold to the highest bidder at public auction, donated
37 to a nonprofit charity or disposed of as waste. At no time may any property that has been
38 disposed of by a law enforcement agency as waste be owned or personally used by any
39 member or relative of a member of that law enforcement agency.

40 **Sec. 3. 25 MRSA §3503**, as enacted by PL 1975, c. 558, is amended to read:

1 **§3503. Sale, donation or disposal of unclaimed property**

2 If the identity or location of the owner or other person entitled to possession of the
3 property has not been ascertained within ~~6 months~~ 60 days after the law enforcement
4 agency obtains such possession, or said identity has been determined and such person
5 does not claim possession within this ~~6-month~~ 60-day period, and the finder of such
6 property, if any, has not claimed it pursuant to the provisions of section 3507 within 15
7 days after the expiration of ~~said 6-month~~ the 60-day period, the principal official thereof
8 ~~shall~~ may effectuate the sale of the property for cash to the highest bidder at a public
9 auction, notice of which, including time, place and a brief description of such property,
10 ~~shall~~ must be published at least once in a newspaper of general circulation in the county
11 ~~wherein in which~~ such official has authority at least 10 days prior to such auction ~~or, in~~
12 ~~the state paper~~ a newspaper having statewide circulation in the case of a state law
13 enforcement agency or on the law enforcement agency's publicly accessible website.
14 Property offered but not sold at such public auction may be offered and sold at a
15 subsequent public auction without further notice. A law enforcement agency also may
16 donate the property to a nonprofit charity or dispose of the property as waste without
17 having offered that property at a public auction.

18 **Sec. 4. 25 MRSA §3504**, as affected by PL 1997, c. 508, Pt. A, §3 and amended
19 by Pt. B, §6, is further amended to read:

20 **§3504. Deposit of proceeds**

21 Proceeds of ~~the~~ a sale of the property at public auction, less reimbursement to the law
22 enforcement agency and others authorized of the reasonable expenses of custody, must be
23 disposed of according to Title 33, chapter 41.

24 **Sec. 5. 25 MRSA §3505**, as enacted by PL 1975, c. 558, is amended to read:

25 **§3505. Recovery of property by owner or person entitled to possession; limitation**

26 The owner or other person entitled to possession of ~~such~~ property may claim and
27 recover possession of the property at any time before its sale at public auction, donation
28 to charity or disposition as waste upon providing reasonable and satisfactory proof of
29 ownership or right to possession and reimbursing the law enforcement agency and others
30 authorized for all reasonable expenses for custody ~~thereof~~ of that property.

31 **Sec. 6. 25 MRSA §3506**, as enacted by PL 1975, c. 558, is amended to read:

32 **§3506. Damages occasioned by acts or omissions**

33 ~~No~~ A person ~~shall be~~ is not responsible for subsequent damages to another
34 occasioned by an act or omission in compliance with this chapter. An action or
35 proceeding may not be maintained against any law enforcement agency or agent of any
36 law enforcement agency for or on account of an act or an omission of an act of that law
37 enforcement agency or law enforcement agency's agent under this chapter.

38 **Sec. 7. 25 MRSA §3507**, as enacted by PL 1975, c. 558, is amended to read:

