

ENROLLED SENATE
BILL NO. 579

BY: WILKERSON, ROBINSON, HELTON
and FAIR of the SENATE

and

WILLIAMS, POPE and COLEMAN
of the HOUSE

AN ACT RELATING TO SEIZED PROPERTY; AMENDING 63 O.S. 1991, SECTION 2-508, AS AMENDED BY SECTION 2 OF ENROLLED HOUSE BILL NO. 2039 OF THE 2ND SESSION OF THE 43RD OKLAHOMA LEGISLATURE, AND 69 O.S. 1991, SECTION 1001, WHICH RELATE TO DISPOSITION OF SEIZED PROPERTY AND SALE OR LEASE OF UNNEEDED PROPERTY; AUTHORIZING CERTAIN AGENCIES TO LEASE VEHICLES AND FIREARMS; PROVIDING CERTAIN RESTRICTIONS; REQUIRING AGENCY TO PROMULGATE RULES, REGULATIONS AND PROCEDURES; PROVIDING FOR REPORT, RENEWAL OF LEASE AND RETURN OF LEASED PROPERTY; DIRECTING DEPOSIT OF CERTAIN FUNDS; DIRECTING CERTAIN AGENCIES OR A DISTRICT ATTORNEY TO NOTIFY THE DEPARTMENT OF CORRECTIONS AND THE STATE DEPARTMENT OF VOCATIONAL AND TECHNICAL EDUCATION OF UNNEEDED PROPERTY; REQUIRING RESPONSE WHEN PROPERTY COULD BE USED; AUTHORIZING TRANSFER OF PROPERTY TO BENEFIT CERTAIN AGENCIES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 1991, Section 2-508, as amended by Section 2 of Enrolled House Bill No. 2039 of the 2nd Session of the 43rd Oklahoma Legislature, is amended to read as follows:

Section 2-508. A. Except as otherwise provided, all property described in paragraphs 1 and 2 of subsection A of Section 2-503 of this title which is seized or surrendered pursuant to the provisions of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, shall be destroyed. The destruction shall be done by or at the direction of the Oklahoma State Bureau of Investigation, who shall have the discretion prior to destruction to preserve samples of the substance for testing. In any county with a population of four hundred thousand (400,000) or more according to the latest Federal Decennial Census, there shall be a located site, approved by the Oklahoma State Bureau of Investigation, for the destruction of the property. Any such property submitted to the Oklahoma State Bureau of Investigation which it deems to be of use for investigative, training, educational, or analytical purposes may be retained by the Oklahoma State Bureau of Investigation in lieu of destruction.

B. All other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the

possession of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or a district attorney may be disposed of by order of the district court when no longer needed in connection with any litigation. If the owner of the property is unknown to the Bureau or district attorney, the Bureau shall hold the property for at least ~~two (2) years~~ six (6) months prior to filing a petition for disposal with the district court except for laboratory equipment which may be forfeited when no longer needed in connection with litigation, unless the property is perishable. The Director or district attorney shall file a petition in the district court of Oklahoma County or in the case of a district attorney, the petition shall be filed in a county within the district attorney's jurisdiction requesting the authority to ~~conduct:~~

1. Conduct a sale of the property ~~or to convert;~~
2. Convert title of the property to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or to the district attorney's office for donation or transfer in accordance with subsection F or H of this section; or
3. Convert title of the property to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control for the purpose of leasing the property in accordance with subsection G of this section.

The Director or district attorney shall attach to the petition a list describing the property, including all identifying numbers and marks, if any, the date the property came into the possession of the Bureau or district attorney, and the name and address of the owner, if known. The notice of the hearing of the petition for the sale of the property, except laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the provisions of the Uniform Controlled Dangerous Substances Act, shall be given to every known owner, as set forth in the petition, by certified mail to the last-known address of the owner at least ten (10) days prior to the date of the hearing. Notice of a hearing on a petition for forfeiture or sale of laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the Uniform Controlled Dangerous Substances Act shall not be required. The notice shall contain a brief description of the property, and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the court may enter an order authorizing the Director or district attorney to donate the property pursuant to subsection F of this section ~~or~~, to sell the property at a public auction to the highest bidder, or to convert title of the property to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control for the purpose of leasing or transferring the property pursuant to subsection G or H of this section after at least ten (10) days' notice has been given by publication in one issue of a legal newspaper of the county. The Director or district attorney shall make a return of the sale and, when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased. The money received from the sale shall be used for the purpose of purchasing controlled dangerous substances to be used as evidence in narcotic cases and fees for informers, or employees and other associated expenses necessary to apprehend and convict violators of the laws of the State of Oklahoma regulating controlled dangerous substances. These funds shall be transferred to the agency special account established pursuant to Section 7.2 of Title 62 of the Oklahoma

Statutes or the Bureau of Narcotics Revolving Fund or in the case of a district attorney, the revolving fund in that district for drug education and enforcement. The Director of the Bureau of Narcotics and Dangerous Drugs Control and the Director of State Finance are hereby authorized and directed to promulgate in writing the necessary rules and regulations requiring strict accountability relative to the expenditure of the above funds. In the case of a district attorney, the accountability relative to the expenditure of the fund shall be according to rules already existing for county revolving funds.

C. Except as provided in subsection A of this section, all other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of the Oklahoma Department of Public Safety may be disposed of by order of the district court when no longer needed in connection with any litigation. If the owner of the property is unknown to the Department, the Department shall hold the property for at least six (6) months prior to filing a petition for disposal with the district court, unless the property is perishable. The Commissioner of Public Safety shall file a petition in the district court of Oklahoma County requesting the authority to conduct a sale of the property or to convert title of the property to the Oklahoma Department of Public Safety. The Commissioner of Public Safety shall attach to the petition a list describing the property, including all identifying numbers and marks, if any, the date the property came into the possession of the Department, and the name and address of the owner, if known. The notice of the hearing of the petition for the sale of the property shall be given to every known owner, as set forth in the petition, by certified mail to the last-known address of the owner and party in last possession if applicable, at least ten (10) days prior to the date of the hearing. The notice shall contain a brief description of the property, and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the court may enter an order authorizing the Commissioner of Public Safety to donate the property pursuant to subsection F of this section ~~or~~, to sell the property to the highest bidder, or convert title of the property to the Oklahoma Department of Public Safety for the purpose of leasing or transferring the property pursuant to subsection G or H of this section after at least five (5) days' notice has been given by publication in one issue of a legal newspaper of the county. The Commissioner of Public Safety shall make a return of the sale and, when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased. The money received from the sale shall be deposited in the Department of Public Safety Revolving Fund and shall be expended for law enforcement purposes.

D. Except as provided in subsection A of this section, all other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of the Alcoholic Beverage Laws Enforcement Commission may be disposed of by order of the district court when no longer needed in connection with any litigation. If the owner of the property is unknown to the Alcoholic Beverage Laws Enforcement Commission, the Commission shall hold the property for at least six (6) months prior to filing a petition for disposal with the district court, unless the property is perishable. The Director of the Alcoholic Beverage Laws

Enforcement Commission shall file a petition in the district court of Oklahoma County requesting the authority to conduct a sale of the property or to convert title of the property to the Alcoholic Beverage Laws Enforcement Commission. The Director of the Alcoholic Beverage Laws Enforcement Commission shall attach to the petition a list describing the property, including all identifying numbers and marks, if any, the date the property came into the possession of the Alcoholic Beverage Laws Enforcement Commission, and the name and address of the owner, if known. The notice of the hearing of the petition for the sale of the property shall be given to every known owner, as set forth in the petition, by certified mail to the last-known address of the owner at least ten (10) days prior to the date of the hearing. The notice shall contain a brief description of the property, and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the court may enter an order authorizing the Director of the Alcoholic Beverage Laws Enforcement Commission to donate the property pursuant to subsection F of this section or to sell the property to the highest bidder after at least five (5) days' notice has been given by publication in one issue of a legal newspaper of the county. The Director of the Alcoholic Beverage Laws Enforcement Commission shall make a return of the sale and, when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased. The money received from the sale shall be deposited in the General Revenue Fund of the state.

E. Except as provided in subsection A of this section, all other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of the Oklahoma State Bureau of Investigation may be disposed of by order of the district court when no longer needed in connection with any litigation. If the owner of the property is unknown to the Bureau, the Bureau shall hold the property for at least six (6) months prior to filing a petition for disposal with the district court, unless the property is perishable. The Director of the Oklahoma State Bureau of Investigation shall file a petition in the district court of Oklahoma County requesting the authority to conduct a sale of the property or to convert title of the property to the Oklahoma State Bureau of Investigation. The Director of the Oklahoma State Bureau of Investigation shall attach to the petition a list describing the property, including all identifying numbers and marks, if any, the date the property came into the possession of the Bureau, and the name and address of the owner, if known. The notice of the hearing of the petition for the sale of the property shall be given to every known owner, as set forth in the petition, by certified mail to the last-known address of the owner and party in last possession if applicable, at least ten (10) days prior to the date of the hearing. The notice shall contain a brief description of the property, and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the court may enter an order authorizing the Director of the Oklahoma State Bureau of Investigation to donate the property pursuant to subsection F of this section ~~or~~, to sell the property to the highest bidder, or convert title of the property to the Oklahoma State Bureau of Investigation for the purpose of leasing or transferring the

property pursuant to subsection G or H of this section after at least five (5) days' notice has been given by publication in one issue of a legal newspaper of the county. The Director of the Oklahoma State Bureau of Investigation shall make a return of the sale and, when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased. The money received from the sale shall be deposited in the OSBI Revolving Fund and shall be expended for law enforcement purposes.

F. Any property, including but not limited to uncontaminated laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the provisions of the Uniform Controlled Dangerous Substances Act, upon a court order, may be donated for classroom or laboratory use by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, Oklahoma Department of Public Safety, district attorney or the Alcoholic Beverage Laws Enforcement Commission to any public secondary school or vocational-technical school in this state or any institution of higher education within The Oklahoma State System of Higher Education.

G. Any vehicle or firearm which has come into the possession and title vested in the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma Department of Public Safety, or the Oklahoma State Bureau of Investigation, may be offered for lease to any sheriff's office or police department in this state on an annual basis to assist with the enforcement of the provisions of the Uniform Controlled Dangerous Substances Act. Each agency shall promulgate rules, regulations and procedures for leasing vehicles and firearms. No fully automatic weapons will be subject to the leasing agreement. All firearms leased may be utilized only by C.L.E.E.T. certified officers who have received training in the type and class of weapon leased. Every lessee shall be required to submit an annual report to the leasing agency stating the condition of all leased property. A lease agreement may be renewed annually at the option of the leasing agency. Upon termination of a lease agreement, the property shall be returned to the leasing agency for sale or other disposition. All funds derived from lease agreements or other disposition of property no longer useful to law enforcement shall be deposited in the agency's revolving fund and shall be expended for law enforcement purposes.

H. Before disposing of any property pursuant to subsections B through E of this section, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Alcoholic Beverage Laws Enforcement Commission, the Oklahoma State Bureau of Investigation or a district attorney shall notify the Department of Corrections and the State Department of Vocational and Technical Education of the identity of any such property in their possession. The Department of Corrections and the State Department of Vocational and Technical Education must respond within ten (10) days of such notification, as to whether or not such property could be used in the operations or training programs of either agency. Upon receipt of the response, the agency or district attorney that issued the notification shall negotiate as to which agency will be entitled to the use of the property, the purpose of the use and the duration of such use. Upon return of the property, the property may be disposed of as otherwise provided in this section. The agencies and any district attorney that are parties to any transfer of property pursuant to this subsection shall enter into written agreements to carry out any such transfer of property. Any such agreement may also provide for the granting of title to any property being transferred as the parties deem appropriate.

SECTION 2. AMENDATORY 69 O.S. 1991, Section 1001, is amended to read as follows:

Section 1001. (a) The Commission shall have authority to sell any lands, or interest therein, which may have been acquired for highway purposes, or facilities necessary and incident thereto, and any equipment, materials or supplies which in the opinion of the Commission are no longer serviceable, useful or necessary for the state highway system or the operation of the Department; but subject at all times to the continuing right to the use of said lands by any entity operating a sewer, water or gas system, telephone or electrical services, and by public service corporations and rural electric and telephone cooperatives for the construction, reconstruction, maintenance, operation and repair of their facilities of service which may be upon said lands. Provided, that any such land which was acquired by the Commission from a governmental subdivision as a gift, or for a nominal consideration, may be reconveyed to the governmental subdivision by the Commission, upon repayment by the governmental subdivision to the Commission of any consideration for the original conveyance.

(b) Except as otherwise herein provided, the lands, materials, equipment and supplies shall be sold for cash to the highest and best bidder after notice by publication in a newspaper published in the county where the land is situated, or where the materials, equipment or supplies are located, in two consecutive weekly issues of the newspaper.

(c) (1) If the land originally comprised a partial taking leaving an abutting remainder, then prior to conducting such advertisement and solicitation of bids for the sale of any lands or interests therein, the Commission shall notify the person, firm or corporation which originally conveyed said property to the Commission or present successor to the original remainder that same has been declared surplus and is to be offered for sale. Such notice shall be sent by registered mail addressed to the last-known address of such person, firm or corporation, with return receipt requested. Such notice shall contain an offer to sell such property to such person, firm or corporation for an amount not less than the present fair market value thereof as determined by a competent appraisal which shall be obtained by the Commission prior to such offer and notice. The amount of the Commission's requested purchase price based on such appraisal shall be stated in said notice, and the person, firm or corporation receiving such notice and offer shall be informed therein that unless he notifies the Commission in writing within thirty (30) days from the date of receipt of said notice that the Commission's offer of sale is accepted by him, the Commission shall proceed to sell said property at public auction as provided for herein. After the expiration of thirty (30) days from the date of receipt of said notice by the person, firm or corporation to whom same is addressed, if he has not notified the Commission in writing of his acceptance of the Commission's offer of sale, the Commission shall proceed to sell such property by public auction and no attempt to accept the Commission's offer by said person, firm or corporation after the expiration of such thirty (30) days shall be honored by the Commission; provided that such person, firm or corporation may submit a bid at the public auction of said property in the same manner as any other qualified bidder.

(2) If the land to be disposed of originally comprised a total taking leaving no abutting remainder, then such shall be sold to the highest bidder, or as otherwise herein provided except that if the land to be disposed of originally comprised a total taking of less than one (1) acre leaving only one abutting property owner of

record, then prior to conducting such advertisement and solicitation of bids for the sale of any such lands or interest therein, the Commission shall notify the sole abutting property owner of record to the taking that such has been declared surplus and is to be offered for sale. Such notice shall be sent by registered mail addressed to the last-known address of such person, firm or corporation, with return receipt requested. Such notice shall contain an offer to sell such property to such person, firm or corporation subject to the same conditions as set forth in (c) (1) above.

(3) For the purposes of this section, the Commission shall not distinguish between persons from whom surplus lands or interest therein were acquired by negotiated sale or gift and persons from whom such property was acquired by condemnation proceedings.

(d) The Commission may, in its discretion, exchange any such lands for other lands needed for highway purposes, or may lease or rent any lands which are owned by the Department, and are not immediately necessary for highway purposes, on such terms as the Commission determines for the best interests of the state.

(e) Prior to disposing of equipment pursuant to subsection (f) of this section, the Oklahoma Department of Transportation shall notify the Department of Corrections and the State Department of Vocational and Technical Education of any equipment which the Department finds to be unusable for its purpose. The Department of Corrections and the State Department of Vocational and Technical Education must respond within ten (10) days of such notification, as to whether or not such equipment could be used in the operations or training programs of either agency. Upon receipt of the response, the Department shall negotiate as to which agency will be entitled to the use of the equipment, the purpose of the use and the duration of such use. Upon return of the equipment, the equipment may be disposed of as otherwise provided in this section. The agencies that are parties to any transfer of equipment pursuant to this subsection shall enter into written agreements to carry out any such transfer of equipment. Any such agreement may also provide for the granting of title to any equipment being transferred as the parties deem appropriate.

(f) The Department may offer for sale to the boards of county commissioners of the various counties, governing bodies or authorities of the municipalities of the state, by circular letter, publication or such other means as the Department may find practicable and as will accurately describe the materials or equipment involved, all highway materials and equipment not transferred pursuant to subsection (e) of this section which the Department finds to be unusable for its purpose and responsibility, before the same is discarded or disposed of as salvage, or junk, and before the same is rendered unusable for the purposes for which it was manufactured.

~~(f)~~ (g) The Department is authorized to act on behalf of the Commission in transactions authorized pursuant to this section, except as may be otherwise provided by rule or regulation of the Commission; and, all prior transactions of the Department which are otherwise in conformity with this section are deemed authorized and approved.

SECTION 3. This act shall become effective September 1, 1992.
Passed the Senate the 14th day of May, 1992.

President of the Senate

Passed the House of Representatives the 25th day of May, 1992.

Speaker of the House of
Representatives