

**EHB 1402**

**THE STATE SENATE**  
**Wednesday, March 30, 2005**

**ENGROSSED**

**House Bill No. 1402**

ENGROSSED HOUSE BILL NO. 1402 - By: THOMPSON, LAMONS, CASE, KIESEL,  
SMITHSON, INGMIRE, NANCE, LIOTTA and PERRY of the House and LAMB and  
WILCOXSON of the Senate.

An Act relating to police departments; amending 11 O.S.  
2001, Section 34-104, as amended by Section 1, Chapter 91,  
O.S.L. 2003 (11 O.S. Supp. 2004, Section 34-104), which  
relates to disposition of personal property, money, or legal  
tender; allowing for the disposal of property by Internet or  
other means deemed appropriate; and providing an effective  
date.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 34-104, as  
amended by Section 1, Chapter 91, O.S.L. 2003 (11 O.S. Supp. 2004,  
Section 34-104), is amended to read as follows:

Section 34-104. A. Any chief of police is authorized to  
dispose of personal property or money or legal tender as provided in  
this section or the charter of the municipality, which has come into  
the possession of the chief of police in any manner if:

1. The owner of the personal property or money or legal tender  
is unknown or has not claimed the property;

2. The property or money or legal tender has been in the  
custody of the chief of police for at least ninety (90) days; and

1           3. The property or money or legal tender or any part thereof is  
2 no longer needed to be held as evidence or for any other purpose in  
3 connection with any litigation.

4           B. The chief of police shall file an application in the  
5 district court in which the situs of government of the municipality  
6 is located requesting the authority of the court to conduct a sale  
7 of ~~such~~ the personal property which has a fair market value of more  
8 than its face value. The chief of police shall attach to the  
9 application a list describing ~~such~~ the property including any  
10 identifying numbers and marks, the date the property came into the  
11 possession of the chief of police, and the name of the owner and the  
12 person in last possession, if different, and the address of ~~such~~ the  
13 person, if known. The court shall set the application for hearing  
14 not less than ten (10) days nor more than twenty (20) days after  
15 filing of the application.

16           C. In any instance where the property has an actual or apparent  
17 value of more than One Hundred Dollars (\$100.00), at least ten (10)  
18 days prior to the date of the hearing, notice of the hearing shall  
19 be sent by certified mail to each owner at the address as listed in  
20 the application. If the owner of any property with an actual or  
21 apparent value exceeding Five Hundred Dollars (\$500.00) is unable to  
22 be served notice by certified mail, notice shall be provided by one  
23 publication in a newspaper of general circulation in the county

1 where the property is in custody. The notice shall contain a brief  
2 description of the property of the owner and the place and date of  
3 the hearing. The notice shall be posted at the assigned place for  
4 the posting of municipal notices, and at two other public places in  
5 the municipality.

6 D. If no owner appears and establishes ownership to the  
7 property at the hearing, the court shall enter an order authorizing  
8 the chief of police to ~~donate~~ dispose of the property as follows:

9 1. Donate the property having value of less than Five Hundred  
10 Dollars (\$500.00) to a not-for-profit corporation as defined in  
11 Title 18 of the Oklahoma Statutes for use by needy families ~~or to~~  
12 sell;

13 2. Sell the personal property for cash to the highest bidder,  
14 after at least five (5) days' notice of the sale has been published;

15 3. Transfer the property to a third-party agent under contract  
16 with the governing body of the chief of police for sale by Internet  
17 or other electronic means, regardless of whether the sale structure  
18 or distribution site is within the State of Oklahoma; or

19 4. By any other means as determined appropriate by the court,  
20 including but not limited to, destruction.

21 ~~The~~ Regardless of the means of disposition, the chief of police  
22 shall make a return of the donation or sale and the order of the  
23 court confirming the donation or sale shall vest title to the

1 property in the recipient or purchaser. After payment of court  
2 costs and other expenses, the remainder of money received from the  
3 sale of the personal property shall be deposited in the municipal  
4 general fund.

5 E. All money or legal tender which has come into the possession  
6 of the chief of police pursuant to the circumstances provided for in  
7 subsection A of this section shall be transferred by the chief of  
8 police to the municipal clerk for deposit in the municipal general  
9 fund. Prior to any ~~such~~ transfer, the chief of police shall file an  
10 application in the district court requesting the court to enter an  
11 order authorizing the chief of police to transfer the money for  
12 deposit in the municipal general fund. The application shall  
13 describe the money or legal tender, the date the same came into the  
14 possession of the chief of police, and the name of the owner and the  
15 address of the owner, if known. Upon filing the application which  
16 may be joined with an application as described in subsection B of  
17 this section, a hearing shall be set not less than ten (10) days nor  
18 more than twenty (20) days from the filing of the application.  
19 Notice of the hearing shall be given as provided for in subsection C  
20 of this section. The notice shall state that upon failure of anyone  
21 to appear to prove ownership to the money or legal tender, the court  
22 shall order the same to be deposited in the municipal general fund.  
23 The notice may be combined with a notice to sell personal property

1 as provided for in subsection B of this section. If no one appears  
2 to claim and prove ownership to the money or legal tender at the  
3 hearing, the court shall order the same to be transferred to the  
4 municipal general fund as provided in this subsection.

5 F. The provisions of this section shall not apply to any  
6 dangerous or deadly weapons, narcotic or poisonous drugs,  
7 explosives, or any property of any kind or character, which the  
8 possession of is prohibited by law. By order of the trial court,  
9 any ~~such~~ property filed as an exhibit or held by the municipality  
10 shall be destroyed or sold or disposed of, pursuant to the  
11 conditions prescribed in ~~such~~ the order.

12 G. The municipality is hereby authorized to establish a  
13 procedure for the registration of "lost and found" property. ~~Such~~  
14 The procedure shall give the finder of any property the option of  
15 relinquishing any future claim to found property at the time its  
16 possession is surrendered to the police or other agent of the  
17 municipality, or of retaining possession of the property after  
18 registering its description and the finders identity with the police  
19 department or other agent of the municipality. Only property in  
20 which the finder relinquishes any future claim to its ownership will  
21 be stored in municipal police property rooms.

22 H. The municipality may provide by ordinance that a percentage  
23 of the money or legal tender deposited in the municipal general fund

1 as provided in subsection D or E of this section may be paid as a  
2 finders fee for services rendered to any person who found the  
3 unclaimed personal property or money or legal tender and delivered  
4 it to, or registered it with, the chief of police or other agent of  
5 the municipality.

6 SECTION 2. This act shall become effective November 1, 2005.

7 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 3-28-05  
8 - DO PASS.