

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 358

By: Ellis

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6 AS INTRODUCED

7 An Act relating to cities and towns; amending 11 O.S.
8 2001, Section 34-104, as last amended by Section 1,
9 Chapter 56, O.S.L. 2005 (11 O.S. Supp. 2008, Section
10 34-104), which relates to disposition of personal
property; authorizing the proceeds from certain
property to be retained by the police department; and
providing an effective date.

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

14 SECTION 1. AMENDATORY 11 O.S. 2001, Section 34-104, as
15 last amended by Section 1, Chapter 56, O.S.L. 2005 (11 O.S. Supp.
16 2008, Section 34-104), is amended to read as follows:

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

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

23 2. The property or money or legal tender has been in the
24 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 the personal property which has a fair market value of more than
8 its face value. The chief of police shall attach to the application
9 a list describing the property including any identifying numbers and
10 marks, the date the property came into the possession of the chief
11 of police, and the name of the owner and the person in last
12 possession, if different, and the address of the person, if known.
13 The court shall set the application for hearing not less than ten
14 (10) days nor more than twenty (20) days after filing of the
15 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
24 where the property is in custody. The notice shall contain a brief

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

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

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

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

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

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

19 Regardless of the means of disposition, the chief of police
20 shall make a return of the donation or sale and the order of the
21 court confirming the donation or sale shall vest title to the
22 property in the recipient or purchaser. After payment of court
23 costs and other expenses, the remainder of money received from the
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1 sale of the personal property shall be ~~deposited in the municipal~~
2 ~~general fund~~ retained by the police department.

3 E. All money or legal tender which has come into the possession
4 of the chief of police pursuant to the circumstances provided for in
5 subsection A of this section shall be ~~transferred by the chief of~~
6 ~~police to the municipal clerk for deposit in the municipal general~~
7 ~~fund.~~ ~~Prior to any transfer, the chief of police shall file an~~
8 ~~application in the district court requesting the court to enter an~~
9 ~~order authorizing the chief of police to transfer the money for~~
10 ~~deposit in the municipal general fund~~ retained by the police
11 department. The application shall describe the money or legal
12 tender, the date the same came into the possession of the chief of
13 police, and the name of the owner and the address of the owner, if
14 known. Upon filing the application which may be joined with an
15 application as described in subsection B of this section, a hearing
16 shall be set not less than ten (10) days nor more than twenty (20)
17 days from the filing of the application. Notice of the hearing
18 shall be given as provided for in subsection C of this section. The
19 notice shall state that upon failure of anyone to appear to prove
20 ownership to the money or legal tender, the court shall order the
21 same to be ~~deposited in the municipal general fund~~ retained by the
22 police department. The notice may be combined with a notice to sell
23 personal property as provided for in subsection B of this section.
24 If no one appears to claim and prove ownership to the money or legal

1 tender at the hearing, the court shall order the same to be
2 ~~transferred to the municipal general fund~~ retained by the police
3 department as provided in this subsection.

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

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

21 H. The municipality may provide by ordinance that a percentage
22 of the money or legal tender ~~deposited in the municipal general fund~~
23 retained by the police department as provided in subsection D or E
24 of this section may be paid as a finders fee for services rendered

1 to any person who found the unclaimed personal property or money or
2 legal tender and delivered it to, or registered it with, the chief
3 of police or other agent of the municipality.

4 SECTION 2. This act shall become effective November 1, 2009.

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