

HOUSE BILL 553

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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AN ACT

RELATING TO LAW ENFORCEMENT; AMENDING A SECTION OF THE NMSA
1978 THAT PROVIDES FOR THE DISPOSITION OF UNCLAIMED PERSONAL
PROPERTY THAT COMES INTO THE POSSESSION OF A PEACE OFFICER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 29-1-14 NMSA 1978 (being Laws 1983,
Chapter 50, Section 2, as amended) is amended to read:

"29-1-14. UNCLAIMED PROPERTY--AUTHORITY TO SELL--NOTICE
OF SALE--DEADLY WEAPONS, CONTROLLED SUBSTANCES AND OTHER
CONTRABAND EXCEPTED.--

A. Any personal property having a fair market value
greater than [~~fifty dollars (\$50.00)~~] five hundred dollars
(\$500) that has been unclaimed by the true owner, is no longer
necessary for use in obtaining a conviction, is not needed for
any other public purpose and has been in the possession of a

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1 state, county or municipal law enforcement agency for more than
2 [~~ninety~~] thirty days shall be sold at public sale.

3 B. Prior to the sale of seized personal property,
4 the law enforcement agency shall:

5 (1) allow the Indian affairs department access
6 to agency inventory records for the purpose of inspecting and
7 selecting items that are appropriate for repatriation to an
8 Indian nation, tribe or pueblo as cultural and patrimonial
9 property;

10 (2) allow state museums access to agency
11 inventory records for the purpose of inspecting and selecting
12 items that are appropriate for transfer to a state museum
13 collection;

14 (3) make a reasonable attempt to notify the
15 original owner of the seized personal property; and [~~shall~~]

16 (4) publish a notice of the sale of unclaimed
17 personal property once each week for two successive weeks. The
18 notice shall contain:

19 [~~(1)~~] (a) a brief description of the
20 personal property to be sold;

21 [~~(2)~~] (b) the time and place of the
22 sale; and

23 [~~(3)~~] (c) the name of any purported
24 owner, if known.

25 C. If prior to the sale the true owner identifies

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1 the personal property to be sold and offers strict proof of
2 identity and ownership of the personal property, the personal
3 property shall be returned to its true owner.

4 D. Any personal property offered but not sold at a
5 public sale may be destroyed or otherwise disposed of upon
6 application to the district court, ex parte and without notice.

7 E. Any personal property sold at public sale,
8 claimed by its true owner, destroyed or otherwise disposed of
9 pursuant to this section shall be removed from the inventory
10 record kept by the law enforcement agency.

11 F. Any personal property having a fair market value
12 equal to or less than [~~fifty dollars (\$50.00)~~] five hundred
13 dollars (\$500) that has been unclaimed by the true owner, is no
14 longer necessary for use in obtaining a conviction, is not
15 needed for any other public purpose and has been in the
16 possession of a state, county or municipal law enforcement
17 agency for more than [~~ninety~~] thirty days may be destroyed,
18 except as otherwise provided by order of the district court
19 upon ex parte application without notice.

20 G. Any alcoholic beverage that has been unclaimed
21 by the true owner, is no longer necessary for use in obtaining
22 a conviction, is not needed for any other public purpose and
23 has been in the possession of a state, county or municipal law
24 enforcement agency for more than [~~ninety~~] thirty days may be
25 destroyed or may be utilized by the scientific laboratory

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1 division of the department of health for educational or
2 scientific purposes.

3 H. The sale of personal property authorized in this
4 section shall not apply to items of cultural or patrimonial
5 property to an Indian nation, tribe or pueblo, to items of
6 significant historical value or to deadly weapons [~~or items of~~
7 ~~significant historical value~~], poisons, controlled substances
8 or other contraband lawfully seized as evidence for the
9 prosecution of a violation of statute or ordinance or [~~which~~
10 ~~that~~ has otherwise come into the lawful possession of a state,
11 county or municipal law enforcement agency and has been in
12 possession for more than [~~ninety~~] thirty days. Once it is
13 determined by the law enforcement agency that any property
14 enumerated in this subsection is no longer necessary for use in
15 obtaining a conviction or is not needed for any other public
16 purpose, the law enforcement agency may apply to the district
17 court, ex parte and without notice, for an order authorizing
18 destruction, repatriation or transfer, or other disposition of
19 the property [~~provided that a state, county or municipal law~~
20 ~~enforcement agency shall allow state museums access to agency~~
21 ~~inventory records for the purpose of inspecting and selecting~~
22 ~~firearms that are appropriate to state museum firearm~~
23 ~~collections~~]. The court shall grant the application if the
24 proposed [~~destruction or~~] disposition is in the best interest
25 of the public safety and welfare.

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I. This section shall not apply to any personal property for which a notice of intent to claim has been served. Any victim, as defined in Section 31-26-3 NMSA 1978, or alleged victim shall be entitled to serve notice of intent to claim ownership of any personal property upon that person, agency or entity in actual custody or control of the property. Nothing in this subsection shall be construed to limit, interfere with or affect the rights or remedies of the rightful owner of any seized property."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.