

1 HOUSE BILL 329

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Patricio Ruiloba

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10 AN ACT

11 RELATING TO LAW ENFORCEMENT; AMENDING A SECTION OF THE NMSA
12 1978 THAT PROVIDES FOR THE DISPOSITION OF UNCLAIMED PERSONAL
13 PROPERTY THAT COMES INTO THE POSSESSION OF A PEACE OFFICER.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

18 "29-1-14. UNCLAIMED PROPERTY--AUTHORITY TO SELL--NOTICE
19 OF SALE--DEADLY WEAPONS, CONTROLLED SUBSTANCES AND OTHER
20 CONTRABAND EXCEPTED.--

21 A. Any personal property having a fair market value
22 greater than [~~fifty dollars (\$50.00)~~] five hundred dollars
23 (\$500) that has been unclaimed by the true owner, is no longer
24 necessary for use in obtaining a conviction, is not needed for
25 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 state museums access to agency
6 inventory records for the purpose of inspecting and selecting
7 items that are appropriate for state museum collections;

8 (2) make a reasonable attempt to notify the
9 original owner of the seized personal property; and [~~shall~~]

10 (3) publish a notice of the sale of unclaimed
11 personal property once each week for two successive weeks. The
12 notice shall contain:

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

15 [~~(2)~~] (b) the time and place of the
16 sale; and

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

19 C. If prior to the sale the true owner identifies
20 the personal property to be sold and offers strict proof of
21 identity and ownership of the personal property, the personal
22 property shall be returned to its true owner.

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

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

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

14 G. Any alcoholic beverage that has been unclaimed
15 by the true owner, is no longer necessary for use in obtaining
16 a conviction, is not needed for any other public purpose and
17 has been in the possession of a state, county or municipal law
18 enforcement agency for more than [~~ninety~~] thirty days may be
19 destroyed or may be utilized by the scientific laboratory
20 division of the department of health for educational or
21 scientific purposes.

22 H. This section shall not apply to items of
23 significant historical value lawfully seized as evidence for
24 the prosecution of a violation of statute or ordinance or that
25 have otherwise come into the lawful possession of a state,

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1 county or municipal law enforcement agency and that have been
2 in the agency's possession for more than thirty days. Once it
3 is determined by the law enforcement agency that items of
4 historical value are no longer necessary for use in obtaining a
5 conviction or are not needed for any other public purpose, the
6 law enforcement agency may apply to the district court, ex
7 parte and without notice, for an order authorizing a sale of
8 the items or a transfer of the items to a state museum.

9 [H.] I. This section shall not apply to deadly
10 weapons [~~or items of significant historical value~~], poisons,
11 controlled substances or other contraband lawfully seized as
12 evidence for the prosecution of a violation of statute or
13 ordinance or which has otherwise come into the lawful
14 possession of a state, county or municipal law enforcement
15 agency and has been in possession for more than [~~ninety~~] thirty
16 days. Once it is determined by the law enforcement agency that
17 any property enumerated in this subsection is no longer
18 necessary for use in obtaining a conviction or is not needed
19 for any other public purpose, the law enforcement agency may
20 apply to the district court, ex parte and without notice, for
21 an order authorizing destruction or [~~other disposition of the~~
22 ~~property; provided that a state, county or municipal law~~
23 ~~enforcement agency shall allow state museums access to agency~~
24 ~~inventory records for the purpose of inspecting and selecting~~
25 ~~firearms that are appropriate to state museum firearm~~

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1 ~~collections]~~ a transfer of the property to a state museum. The
2 court shall grant the application if the proposed destruction
3 or ~~[disposition]~~ transfer is in the best interest of the public
4 safety and welfare.

5 ~~[F.]~~ J. This section shall not apply to any
6 personal property for which a notice of intent to claim has
7 been served. Any victim, as defined in Section 31-26-3 NMSA
8 1978, or alleged victim shall be entitled to serve notice of
9 intent to claim ownership of any personal property upon that
10 person, agency or entity in actual custody or control of the
11 property. Nothing in this subsection shall be construed to
12 limit, interfere with or affect the rights or remedies of the
13 rightful owner of any seized property."

14 **SECTION 2. EFFECTIVE DATE.**--The effective date of the
15 provisions of this act is July 1, 2017.