

**SFA**

BILL ANALYSIS

Senate Fiscal Agency

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Mich. State Law Library

**Senate Bill 109 (Substitute S-3 as reported)****Sponsor: Senator Jerome Hart****Committee: Judiciary****Date Completed: 11-10-87*****RATIONALE***

The law governing the disposition of lost property was originally enacted in 1846 and is considered by many to be archaic, as well as unfair to the finder. Under the Act, a person who finds lost money or goods or "stray beasts" is required to notify the township, give public notice of the finding, and have an appraisal made; if the property is not claimed after a certain period of time, the finder may keep the property but must pay the township half the value of money or goods. Reportedly, this law is applied inconsistently throughout the State, and often places governmental agencies in the position of either warehousing large quantities of goods or disposing of them in ways that may be contrary to the Act. Thus, it has been proposed that the procedures for handling lost property be updated and standardized.

***CONTENT***

The bill would create a new act to provide procedures regarding the finding, classification, and disposal of lost property. It would prescribe the powers and duties of law enforcement agencies, establish the rights and responsibilities of finders of lost property, and repeal an Act that governs the finding of lost goods and stray animals.

Lost Property

A person who found lost property, including all property found on or in an abandoned vehicle, would be required to report the finding or deliver the property to a law enforcement agency in the jurisdiction where the property was found. If the person wished to receive the property if it were not claimed by the legal owner, the person would have to provide his or her name and address to the law enforcement agency. The law enforcement agency would be required to inspect and classify the property into one of the following categories, which would be defined by the bill:

- Collectible currency
- Contraband
- Currency
- Evidence
- Hazardous material
- Junk
- Perishable property
- Property of major value
- Property of minor value

Within 48 hours of receiving a report or delivery of property of major value, collectible currency, currency, hazardous material, or perishable property that had a major value, the law enforcement agency would have to complete a report that described the property in a general way to provide a person who could be the owner with enough information to aid in determining ownership. The report

also would have to include a detailed description of the property to provide the law enforcement agency with information, including the total value of the property found in one location, to determine ownership. The detailed description would be exempt from disclosure under the Freedom of Information Act. Property of minor value could be kept by the law enforcement agency in a safe location and inspected by the public upon request. Whether property were of minor or major value would have to be determined by a person who had expertise in property valuation.

Notification of Owner

The law enforcement agency would be required to notify any known owner of collectible currency, currency, evidence, perishable property, or property of major value. Property of major value would have to be claimed within six months, and property of minor value within three months of the date of notification. The agency would have to dispose of collectible currency, currency, perishable property and property of major value that was not claimed, by doing one of the following:

- Returning the property to its finder.
- Retaining the property for use by the local law enforcement agency.
- Selling the property at a public sale with profits to be deposited in the general fund of the local governmental unit.
- Releasing the property to a charitable organization.

Property classified as contraband and any other property that was evidence in a criminal or civil action instituted by a governmental attorney would have to be kept in a place of safekeeping until the attorney released it. All contraband would have to be disposed of according to law. After the conclusion of a court action, evidence could be returned to the legal owner unless prohibited by law or unless the evidence were required in another court action. Found property that was defined as hazardous material could be released to the legal owner, unless the owner could not be located or there were probable cause to believe that the material could pose an imminent danger to life or property; in such a case, the hazardous material could be released to an organization or person who could safely keep or dispose of it. Found property defined as junk could be disposed of "in any manner" by the law enforcement agency. Found perishable property would be returned to the legal owner.

In situations involving a dispute over ownership of lost property, a person could file a claim of ownership in the district court, in the municipal court, or, if the amount in controversy exceeded \$10,000, in the circuit court. The court would have to schedule a hearing within 30 days to determine ownership and notify all people claiming

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ownership and the law enforcement agency or officer. At the hearing, the person claiming ownership would have the burden of establishing ownership. The court would have to make a decision 10 days after the hearing as to the legal owner.

Notwithstanding any other law, a State, county, city, municipality, township, governmental agency, or person would not be criminally or civilly liable for complying with the proposed Act.

#### Other Acts

The bill would repeal Chapter 47 of the Revised Statutes of 1846 (MCL 434.1-434.14). Under that Act, a person who finds lost money or goods or stray "horses, mules, or asses" is required to notify the owner or give public notice of the finding, and to have an appraisal made of the property or animals if they are not claimed within three months. The Act provides for restitution to an owner who claims lost money or goods within one year, or stray animals within six months. If no owner appears, the finder is entitled to keep lost money or goods but must pay the township treasurer one-half their value. Unclaimed stray animals are to be sold at an auction. The Act also establishes penalties for failing to give notice or taking stray animals without paying the required charges.

The bill would not apply to abandoned property that is covered under Public Act 214 of 1979, which governs stolen and abandoned property in a village or township.

### ***FISCAL IMPACT***

The bill would have an indeterminate impact on local units of government. Costs resulting from administrative responsibilities of law enforcement agencies are not determinable.

### ***ARGUMENTS***

#### ***Supporting Argument***

Current law is clearly antiquated: it requires the finder of property valued at \$3 or more to post notice in two places within the township and pay 25 cents to have notice of the finding entered in a book kept by the township clerk. A township resident is allowed to "take up between the first day of November and the thirty-first day of March, any stray neat cattle, sheep, or swine, by him found going at large therein, beyond the range of where such animals usually run at large". Apart from the archaic language, the procedures simply don't conform to today's standards. As a result, tremendous disparity exists throughout the State in the way law enforcement agencies dispose of found property, and individual townships have enacted various ordinances that may actually violate the existing law. By providing a clear and uniform system for disposing of property quickly and efficiently, the bill would save local officials much time and space that now is devoted to disposition.

#### ***Supporting Argument***

By requiring the finder of lost property to pay for advertising the find, and then pay the township half the value of unclaimed property, current law actually discourages people from coming forward with their find. In contrast, the bill would give law enforcement agencies the responsibility of notifying a known owner of valuable property, and would establish a clear hierarchy for the disposal of such property: 1) returning the property to the owner; 2) returning the property to the finder; and 3) retaining the property, selling it, or donating it to charity.

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