CHAPTER 21

Disposition of Confiscated and Stolen Property

**SECTION 27‑21‑10.** Sales of confiscated property; records thereof; disposition of proceeds.

 The sheriff of each county of this State shall sell at public auction at the courthouse of his county all barrels and other things of value confiscated by him and his deputies. At least seven days’ notice shall be given by the sheriff prior to any such sale, such notice to be posted in the sheriff’s office and on the bulletin board in the courthouse. All barrels and other things of value shall be sold for cash, at auction, called and conducted by the sheriff, the highest bidder to receive the property in each instance. The sheriff shall keep a record of such property confiscated and a record of all property sold, showing the amount received for it and the name of the purchaser. All funds derived from such sales shall be turned over to the treasurer of the county and credited to the general funds.

HISTORY: 1962 Code Section 57‑241; 1952 Code Section 57‑241; 1942 Code Section 3542‑1; 1941 (42) 149.

CROSS REFERENCES

Confiscation of motor vehicles or other chattels used in stealing livestock, see Section 16‑13‑50.

Destroying confiscated gambling devices, see Section 16‑19‑120.

Offenses, prohibitions and enforcement of the liquor laws, see Sections 61‑6‑4000 et seq.

Recovery of personal property generally, see Sections 15‑69‑10 et seq.

Sale days of judicial sales, see Section 15‑39‑680.

Library References

Criminal Law 1221.

Searches and Seizures 84.

Westlaw Topic Nos. 110, 349.

C.J.S. Criminal Law Section 1733.

C.J.S. Searches and Seizures Sections 217 to 226.

**SECTION 27‑21‑20.** Property recovered by sheriff or police chief; ascertaining and notifying owner; disposition where owner not found; records.

 (A) If property has been recovered by a sheriff of a county or chief of police of a municipality and ownership is ascertained, the sheriff or chief of police must notify its owner as provided by subsection (B).

 (B) A sheriff or chief of police must provide notice:

 (1) within fifteen days;

 (2) by registered mail, return receipt requested;

 (3) describing the property and including an identifying serial number if available; and

 (4) advising the owner that the property may be sold at auction pursuant to Section 27‑21‑22 if not reclaimed within sixty days of mailing of the notice.

 (C) If after diligent efforts the owner of the property cannot be ascertained or if the property is not reclaimed or sold at public auction, the sheriff of a county or chief of police of a municipality may dispose of any recovered stolen or abandoned property as provided in this subsection.

 (1) Property that is not suitable for sale, including, but not limited to, clothing, food, prescription drugs, weapons, household cleaning products, chemicals, or items that appear nonusable, including, but not limited to:

 (a) electric components that appear to have been skeletonized, where parts have been removed and are no longer in working order; or

 (b) items that have been broken up and only pieces exist may be destroyed by the jurisdiction holding the property.

 (2) The sheriff or chief of police may use any property recovered by his jurisdiction if the property is placed on the jurisdiction’s inventory as property of the jurisdiction.

 (3) The sheriff or chief of police, with the consent of the appropriate governing body, may turn over to any organization exempt from tax under Section 501(c)(3) of the Internal Revenue Code of 1986, items of abandoned or recovered property that may be used for the betterment of that organization. However, the accrued value of the items given to an individual organization as provided above by a sheriff or chief of police shall not exceed a value of one thousand dollars in the respective government entity’s fiscal year.

 (D) A jurisdiction recovering property pursuant to the provisions of this section shall maintain a permanent record of all property recovered and its disposition.

HISTORY: 1962 Code Section 57‑245; 1959 (51) 390; 1982 Act No. 291, Section 1; 1992 Act No. 405, Section 1; 1993 Act No. 148, Section 1; 2002 Act No. 195, Section 4; 2008 Act No. 279, Section 15, eff October 1, 2008.

Effect of Amendment

The 2008 amendment, in subsection (A), substituted “by subsection (B)” for “in Section 56‑5‑5630”; and rewrote subsection (B).

CROSS REFERENCES

Use of certain drug paraphernalia by public schools or institutions of higher learning in science programs or courses, instead of selling it at public auction, see Section 27‑21‑25.

Federal Aspects

Section 501(c)3 of Internal Revenue Code, see 26 U.S.C.A. Section 501(c)(3).

Library References

Criminal Law 1221.

Searches and Seizures 84.

Westlaw Topic Nos. 110, 349.

C.J.S. Criminal Law Section 1733.

C.J.S. Searches and Seizures Sections 217 to 226.

Attorney General’s Opinions

Funds from the sale of abandoned or recovered property if not paid to the true owner of such property within a year of the sale must go to the county general fund. 1989 Op. Atty Gen, No. 89‑100, p 272.

**SECTION 27‑21‑22.** Sale of recovered property.

 A sheriff, police chief, or a designee may sell at public auction recovered property not reclaimed as provided by Section 27‑21‑20. At least ten days prior to the sale, the property must be advertised by publication in a local newspaper of general circulation where the property will be sold. A notice by publication may contain multiple listings of property to be sold.

HISTORY: 2008 Act No. 279, Section 14, eff October 1, 2008.

**SECTION 27‑21‑25.** Use of certain drug paraphernalia by public schools or institutions of higher learning in science programs or courses.

 Notwithstanding the provisions of Section 27‑21‑20 of the 1976 Code or any other provision of law, if any glassware or other drug paraphernalia which is unclaimed and which would be useful in a science laboratory is recovered pursuant to Section 27‑21‑20, it must be made available first to the public schools and second to the public institutions of higher learning in the State for use in their science programs or courses before it may be sold at public auction or otherwise disposed of in accordance with that section.

HISTORY: 1992 Act No. 405, Section 2.

Library References

Criminal Law 1221.

Searches and Seizures 84.

Westlaw Topic Nos. 110, 349.

C.J.S. Criminal Law Section 1733.

C.J.S. Searches and Seizures Sections 217 to 226.

**SECTION 27‑21‑30.** Recovery by owner of net proceeds or property.

 At any time within one year after the sale of any abandoned or recovered stolen property as provided for in Section 27‑21‑20, the true owner may apply to the sheriff and after proper identification and proof of claim recover the net sum received from the sale, after necessary expenses are deducted. The property itself may be recovered after proper identification and proof of claim if such claim is made prior to sale. After the lapse of one year after sale the net sum received for the abandoned property shall be placed in the general fund of the county.

HISTORY: 1962 Code Section 57‑246; 1959 (51) 390.

Library References

Criminal Law 1221.

Searches and Seizures 84.

Westlaw Topic Nos. 110, 349.

C.J.S. Criminal Law Section 1733.

C.J.S. Searches and Seizures Sections 217 to 226.