

**HB**

**295**

# Alaska State Legislature

Representative Brian S. Porter

CHAIRMAN  
HOUSE JUDICIARY COMMITTEE

MEMBER  
HOUSE LABOR & COMMERCE COMMITTEE  
HOUSE STATE AFFAIRS COMMITTEE  
INTERNATIONAL TRADE & TOURISM  
COMMITTEE

MEMBER  
FINANCE SUBCOMMITTEES  
DEPARTMENT OF LAW  
DEPARTMENT OF EDUCATION  
COURTS



## DISTRICT 20

SESSION:  
STATE CAPITOL, ROOM 118  
JUNEAU, ALASKA 99801-1182  
PHONE: (907) 465-4930  
FAX: (907) 465-3834

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716 W. 4TH AVE., SUITE 640  
ANCHORAGE, AK 99501-2133  
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### Sponsor Statement

For

### HB 295 Property Held By Law Enforcement Agencies

This legislation authorizes municipalities which have specific code provisions regarding seizure and disposal of property by municipal law enforcement agencies to follow those ordinances rather than the state law.

Currently, municipalities are required to follow the procedures outlined in AS 12.36 and AS 34.45. A municipal law enforcement agency coming into possession of property for which the owner is unknown must hold that property for up to five years. If the property was not seized as part of a criminal investigation the property is required to be held and then turned over to the Commissioner of Revenue.

In Anchorage, the municipal provisions for disposal of abandoned, stolen, or found property are set forth in AMC 7.25 (see attached materials). The provisions in this section require notification to property owners and, if the property remains unclaimed 15 days after the last date of notice, the property may be sold, destroyed, auctioned, or retained for municipal use. Specific provisions allow authorizing dedication of abandoned, stolen or found bicycles for public use and donation to non-profit organizations.

Bicycles are just one example of the property handled by the Anchorage Police Department. Over 20,000 items of property were handled in 1994. Imposing a five year storage requirement would backlog municipal property sections.

If municipalities are required to follow the provisions of the state statutes, substantial storage burdens and property handling expenses would be created.

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BUD. NO. 10229

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "An Act relating to the custody and disposition of BRU: Prosecution  
property in the custody of municipal law enforcement agencies." Component: All  
 Sponsor: Representative Porter  
 Requester: Representative Porter COMPONENT SERIAL NO. 0085-0090

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 4/18/95  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 4/18/95  
 Agency: Department of Law

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO: HR 295

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: Property held by law enforcement agencies BRU: Fish and Wildlife Protection  
 \_\_\_\_\_ Component: Enforcement & I.S.U.  
 Sponsor: Representative Porter  
 Requestor: (H) Judiciary COMPONENT SERIAL NO. 490

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ 0.00

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS:** HB 295 if enacted would provide municipalities authority to enact ordinances for disposing of property seized by law enforcement agencies.  
 Since this act would grant an exemption for municipalities only, it does not appear to impact the Division of Fish and Wildlife Protection.  
 This bill if enacted would not affect this Division's programs or budget.

Prepared By: Captain Ted L. Ruddell, Operations Commander Phone: (907) 269-5509  
 Division: Fish and Wildlife Protection Date: April 14, 1995  
 Approved by Commissioner: *Ronald L. Otte* Date: 4/17/95  
 Agency: Ronald L. Otte, Dept. of Public Safety

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**FISCAL NOTE**

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO: HB 295

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: Property held by law enforcement agencies BRU: Alaska State Troopers  
 Component: Detachments  
 Sponsor: Representative Brian Porter  
 Requestor: (H) Judiciary COMPONENT SERIAL NO. 0799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CAPITAL EXPENDITURES</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CHANGE IN REVENUES ( )</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<small>Revenue Code</small>						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF.MHTIA						
Other						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

Estimate of current year (FY 95) impact: \$ -0-

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691  
 Division: Alaska State Troopers Date: 04/17/95  
 Approved by Commissioner: *Ronald L. Otte* Date: 4/17/95  
 Agency: Ronald L. Otte, Dept. of Public Safety


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217 Second Street, Suite 201 • Juneau, Alaska 99801 • Tel (907) 586-1325 Fax (907) 463-5480

April 19, 1995

TO: Representative Brian Porter  
FROM:   
Executive Director

RE: HB 295 - Custody and disposition of property in the custody of municipal law enforcement agencies

The Alaska Municipal League supports HB 295 - custody and disposition of property in the custody of municipal law enforcement agencies, which allows municipalities to establish a local ordinance to handle the disposition of property that is in the custody municipalities.

When property comes into the custody of a law enforcement agency of a municipality, they should have the ability to decide how to dispose of that property by local ordinance.

According to the 1995 AML Policy Statement, "the League supports legislation that promotes effective and independent local government in all organized and unorganized boroughs and cities and opposes any legislation that unduly restricts local government operations."

**DIVISION OF LEGAL SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

**MEMORANDUM**

April 19, 1995

**SUBJECT:** Sectional Summary of HB 295 (Work Order No. 9-LS0950\A)

**TO:** Representative Brian Porter  
Attn: Daniella

**FROM:** *JB*  
Theresa Bannister  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1** conforms the section to the new provisions in sec. 2 of the bill.

**Section 2** exempts from AS 12.36 municipalities that have adopted ordinances providing for the custody and disposition of property collected for children's proceedings, criminal proceedings, and criminal investigations.

**Section 3** conforms the section to the new provisions in sec. 4 of the bill.

**Section 4** provides that the provisions otherwise governing the disposition of certain abandoned property do not apply to the listed property turned over to or recovered by a municipality's law enforcement agency if the municipality has adopted an ordinance providing for the custody and disposition of the property.

If I may be of further assistance, please advise.

TLB:klb  
95-275.klb

FISCAL NOTE

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Property Held by Law Enforcement Agencies BRU: Audit Operations  
 Component: Income and Excise Audit  
 Sponsor: Rep. Porter  
 Requestor: (H) JUD COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL						
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REVENUE FUND SOURCE:	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current (FY95) Impact \$ 0.0

**ANALYSIS: (Attach a separate page if necessary)**

This bill would exempt checks, drafts, currency and tangible property that are found and turned over to, or found and recovered by a law enforcement agency of a municipality from being subject to the state's unclaimed property statutes. In order to be exempt, a municipality would be required to adopt an ordinance providing for custody and disposition of the property. This bill would not impact Department of Revenue since property turned over to the state by law enforcement agencies is immaterial in comparison to all other properties reported under the unclaimed property program.

Prepared by: Robert N. Bartholomew, Deputy Director *Robert N. Bartholomew* Phone: 465-2320  
 Division: Income and Excise Audit *Robert N. Bartholomew* Date: 4/13/95  
 Approved by Commissioner: *Robert N. Bartholomew* Date: 4/13/95  
 Agency: Department of Revenue

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*Rick Mystrum,  
Mayor*

# ANCHORAGE POLICE DEPARTMENT

4701 C Street • Anchorage, Alaska 99507-1599

Telephone (907) 786-8500



*Service since 1921*

**April 13, 1995**

**Daniella Loper, Legislative Aide  
Representative Brian Porter  
State Capitol  
Juneau, AK 99808**

**Re: HB 295 Regarding Disposal of Property**

**Dear Ms. Loper:**

**The Anchorage Police Department supports passage of HB 295 to authorize municipalities which have specific code provisions regarding disposal of property by municipal law enforcement agencies to follow those ordinances rather than the state statues in Titles 12 and 34.**

**Following the procedures outlined in AS 12.36 and AS 34.45, a municipal law enforcement agency coming into possession of property for which the owner is unknown must hold that property for up to two years. If the property was not seized as part of a criminal investigation (e.g. found property voluntarily turned in by citizens) the property is required to be held two years and is then turned over to the Commissioner of Revenue.**

**The Anchorage Police Department converted over 700 bicycles in 1994 to the YMCA for auction by the YMCA to raise funds for youth programs. Mandating the department store each bicycle for two years would result in an overwhelming storage problem for the department and deprive the YMCA of this funding source.**

**Bicycles are just one example of the property handled by the Anchorage Police Department, over 20,000 items of property were handled in 1994. Imposing a two year storage requirement would backlog our Property and Evidence Section and delay processing items of evidence vital to prosecuting criminals.**

**Sincerely,**

**Bruce H. Richter  
Captain, Technical Services**

**Municipality  
of  
Anchorage**



P.O. Box 196650  
Anchorage, Alaska 99519-6650  
Telephone: (907) 343-4545

*Rick Mystrom, Mayor*

OFFICE OF THE MUNICIPAL ATTORNEY

April 13, 1995

**VIA FACSIMILE 465-3834**

Daniella Loper, Legislative Aide  
Representative Brian Porter  
State Capitol  
Juneau, Alaska 99808

Re: HB 295 Regarding Disposal of Property

Dear Ms. Loper:

The Municipality of Anchorage has requested that a bill along the lines of HB 295 be enacted to authorize municipalities which have specific code provisions regarding seizure and disposal of property by municipal law enforcement agencies to follow those ordinances rather than the state statutes in Titles 12 and 34.

Following the procedures outlined in AS 12.36 and AS 34.45 a municipal law enforcement agency coming into possession of property for which the owner is unknown must hold that property for up to two years. If the owner is known, the property must be held for one year. If the property was not seized as part of a criminal investigation (e.g. found property voluntarily turned in by citizens) the property is required to be held two years and is then turned over to the Commissioner of Revenue. Additionally, periodic reports listing all property in this category must be made to the Commissioner of Revenue.

Current Municipal Code provisions for disposal of abandoned, stolen, or found property are set forth in AMC 7.25, a copy of which is attached. The provisions in this section require notification to property owners and, if the property remains unclaimed 15 days after the last date of notice, the property may be sold, destroyed, auctioned, or retained for municipal use. AMC 7.25.040 sets out specific provisions authorizing dedication of abandoned, stolen or found bicycles for public use and donation to non-profit organizations. Pursuant to this section the Municipality has donated hundreds of bicycles per year to the local YMCA.

Daniella Loper  
April 13, 1995  
Page 2 of 2

HB 295 would authorize municipal law enforcement personnel to follow the provisions of the municipal code rather than the state statutes. If the Municipality of Anchorage is required to follow the provisions of the state statutes, it would create a substantial storage burden and property handling expense. The Anchorage Police Department has not previously incurred the expense of this burden. The Municipality of Anchorage, Anchorage Police Department, seeks relief from the state mandated holding of property for such a lengthy period.

Sincerely,



Scott A. Brandt-Erichsen  
Assistant Municipal Attorney

cc: Chief Kevin O'Leary  
Deputy Chief Duane Udland  
Tim Rogers

matter\legis\loper.sbe/kam

## Chapter 7.25

### DISPOSAL OF ABANDONED, STOLEN OR FOUND PROPERTY

#### Sections:

7.25.010	Disposable property.
7.25.020	Notice of possession.
7.25.030	Disposition.
7.25.040	Auction sale.
7.25.045	Dedication of abandoned, stolen or found bicycles for public use or benefit.
7.25.050	Publication and sale costs--Reimbursement.
7.25.060	Dangerous or perishable property--Immediate disposal.

#### 7.25.010 Disposable property.

Except as otherwise required by law, the following property in possession of the Police Department may be disposed of as provided in this chapter:

- A. Property collected as evidence and not claimed by the owner within 15 days after final disposition of the criminal case to which it pertains; or
- B. Property voluntarily tendered to the Police Department and not claimed by the owner within 15 days thereafter; or
- C. Property found and delivered to the Police Department and not claimed by the owner within 15 days thereafter; or
- D. Stolen property recovered by the Police Department and not claimed by the owner within 30 days after such recovery.

"Disposable property," as used in this chapter, does not include a vehicle which has been impounded for a violation of Title 9 of this code. "Disposable property" is any property in possession of the Police Department which cannot be identified to an owner. (Adapted from CAC 2.76.010, am AO 79-203, AO 88-79).

7.25.020 Notice of possession.

- A. The Chief of Police shall notify the Purchasing Officer that he is in possession of disposable property. The Purchasing Officer shall publish in a newspaper of general circulation in the municipality twice a week for two consecutive weeks a notice of possession of disposable property. At approximately the same time as the first publication, the Purchasing Officer shall send copies of the notice by certified mail (return receipt requested) to the last known owner and to the finder, if any, at their respective last known addresses if any,
- B. Every notice of possession mailed or published pursuant to this section shall contain:
1. a general description of the property;
  2. the date the Police Department first obtained possession of the property;
  3. the provision that unclaimed property will be sold at public auction and the proceeds will be forfeited to the Police Service Area Fund;
  4. the provision that unclaimed property, if money, will be paid into the municipal treasury for deposit to the Police Service Area Fund;
  5. the provision that the property must be claimed by the owner within 15 days after the last date on which the notice is published; and
  6. the provision that the finder will forfeit all of his right, title, interest and claim in and to found property or money unclaimed by the owner unless the finder files a written request with the Chief of Police for return of the unclaimed property within 15 days after the last date on which the notice is published. (CAC 2.76.020, am AO 79-203, AO 80-97, AO 88-79).

7.25.030 Disposition.

If the property is unclaimed by the owner after the publication and mailing of the notice of possession and the expiration of the time periods as required by section 7.25.020, the property shall be disposed of as follows:

- A. Found property, including money, shall be returned to the finder, if any, upon condition that a timely request for such has been received by the Police Department.
- B. All property, other than money, which is not addressed by subsection A of the section shall be subject to a claim by the Chief of Police that retention of such property for use by the Municipality of Anchorage will serve the public interest. In conjunction with the Purchasing Officer, weapons so claimed by the Chief of Police may be used for trading or bartering in order to acquire them for police use. If the Chief of Police does not make such a claim the Purchasing Officer shall sell and not destroy the property, that is legal for private ownership and not precluded by court order, at a public auction to be held pursuant to the notice required by Section 7.25.020. The proceeds from that sale, together with any unclaimed or unreturned money, shall be forfeited to the Police Service Area Fund, subject to the fee provisions of Section 7.25.050.
- C. The Municipal Auditor will certify the proper disposal under all above provisions.
- D. Notwithstanding any other provision of law, a finder of a motor vehicle shall have no right to possession or any ownership interest in that property except as may be acquired pursuant to a disposition method provided by the Purchasing Officer. (CAC 2.76.030, am AO 79-203, effective January 1, 1980, AO 88-79).

7.25.040 Auction sale.

The Purchasing Officer shall sell the property to be disposed of to the highest bidder at the public auction sale, for cash or upon such terms as the auctioneer shall announce. The auction sale may be continued by the auctioneer to another time or times. The Purchasing Officer shall certify as to the disposal of property and shall execute the bill of sale to the property sold. Upon acceptance of the highest bid, the sale shall be final and not subject to redemption. Property unsold shall become the property of the municipality and may be disposed of by the municipality according to law (Adapted from CAC 2.76.040, am AO 79-203).

7.25.045 Dedication of abandoned, stolen or found bicycles for public use or benefit.

Notwithstanding any other provision of this chapter, any bicycle in the possession of the Police Department not claimed for 10 days, and for which the owner is not known, may be dedicated to public use or benefit in the following manner:

- A. The Assembly shall declare by resolution its desire to dedicate to public use or benefit abandoned, stolen or found bicycles which have been in the possession of the Police Department for more than 10 days.
- B. As soon as practicable after such declaration, the Purchasing Officer or his designee shall publish for two consecutive weeks, twice weekly, in a newspaper of general circulation, a notice describing the bicycles and stating the time, place and manner by which the bicycles may be identified and claimed by the owners. The notice shall include a statement that bicycles not so identified and claimed may be dedicated irrevocably to public use or benefit, or sold at auction.
- C. Within the first week of the two-week publication period, the purchasing officer or his designee shall also attempt to notify by certified letter the owners of the bicycles proposed for dedication who can be identified with reasonable certainty. The letter shall contain substantially the same information specified in subsection B for public notice.
- D. At the end of the first week following the two-week period of public notice, bicycles which have not been identified and claimed by the owners may be utilized for public purposes in any manner prescribed by the Assembly by resolution, or may be sold in accordance with the provisions of this chapter. If the bicycles have remained in the custody of the Police Department, the sale shall be conducted in accordance with AMC 7.25.030. If possession of the bicycles has been tendered to a third party pursuant to a contract, then that third party shall sell the bicycles at a public auction to be conducted pursuant to a notice which will contain the following information:

1. a general description of the bicycles;
2. the date on which the Police Department obtained possession of the bicycles;
3. that unclaimed bicycles will be sold at public auction or dedicated to public use or benefit and the proceeds forfeited to the Police Service Area Fund or otherwise used for the public benefit;
4. that the owners must claim the bicycles within 30 days after the last date of publication of the notice. (AO 77-210, am AO 79-203, AO 81-118, AO 88-79).

7.25.050 Notification and sale costs fee.

Before returning property to a finder or owner, and before delivering money to the treasury, the Chief of Police shall require a reasonable fee from the person receiving the property or money delivered for the costs of notice, publication and sale attributable to the property or money delivered. The proceeds from that fee shall be deposited into the Police Service Area Fund. The Chief may waive this requirement for a good cause. (CAC 2.76.050, am AO 79-203, AO 88-79).

7.25.060 Dangerous or perishable property--Immediate disposal.

Property in the possession of the Police Department and determined by the Chief of Police to be perishable or to constitute an immediate danger to the public may be disposed of immediately in any manner without notice of sale. Proceeds of any such disposition shall be subject to this chapter. (CAC 2.76.060 and law, am AO 79-203).

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 295

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "An Act relating to the custody and disposition of BRU: Prosecution  
property in the custody of municipal law enforcement agencies." Component: All  
 Sponsor: Representative Porter  
 Requester: Representative Porter COMPONENT SERIAL NO. 0085-0090

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 4/18/95  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 4/18/95  
 Agency: Department of Law

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO: HB 295

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: Property held by law enforcement agencies BRU: Fish and Wildlife Protection  
 Component: Enforcement & I.S.U.  
 Sponsor: Representative Porter  
 Requestor: (H) Judiciary COMPONENT SERIAL NO. 490

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ 0.00

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS:** HB 295 if enacted would provide municipalities authority to enact ordinances for disposing of property seized by law enforcement agencies.  
 Since this act would grant an exemption for municipalities only, it does not appear to impact the Division of Fish and Wildlife Protection.  
 This bill if enacted would not affect this Division's programs or budget.

Prepared By: Captain Ted L. Ruddell, Operations Commander Phone: (907) 269-5509  
 Division: Fish and Wildlife Protection Date: April 14, 1995  
 Approved by Commissioner: *Ronald L. Otte* Date: 4/17/95  
 Agency: Ronald L. Otte, Dept. of Public Safety

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO: HB 295

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: Property held by law enforcement agencies BRU: Alaska State Troopers  
 Component: Detachments  
 Sponsor: Representative Brian Porter  
 Requestor: (H) Judiciary COMPONENT SERIAL NO. 0799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b> <small>Revenue Code</small>	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ -0-

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691  
 Division: Alaska State Troopers Date: 04/17/95  
 Approved by Commissioner: *Ronald L. Otte* Date: 4/17/95  
 Agency: Ronald L. Otte, Dept. of Public Safety

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Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Property Held by Law Enforcement Agencies BRU: Audit Operations  
 Component: Income and Excise Audit  
 Sponsor: Rep. Porter  
 Requestor: (H) JUD COMPONENT SERIAL NO. 113

Expenditures/ Revenues: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current (FY95) impact \$ 0.0

ANALYSIS: (Attach a separate page if necessary)

This bill would exempt checks, drafts, currency and tangible property that are found and turned over to, or found and recovered by a law enforcement agency of a municipality from being subject to the state's unclaimed property statutes. In order to be exempt, a municipality would be required to adopt an ordinance providing for custody and disposition of the property. This bill would not impact Department of Revenue since property turned over to the state by law enforcement agencies is immaterial in comparison to all other properties reported under the unclaimed property program.

Prepared by: Robert N. Bartholomew, Deputy Director *Robert N. Bartholomew* Phone: 465-2320  
 Division: Income and Excise Audit Date: 4/13/95  
 Approved by Commissioner: *[Signature]* Date: 4/13/95  
 Agency: Department of Revenue

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## CS FOR HOUSE BILL NO. 295(2d JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES PORTER, Toohey

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to forfeitures of property; and relating to the custody and  
 2 disposition of property in the custody of municipal law enforcement agencies."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 \* Section 1. AS 12.36.020(a) is amended to read:

5 (a) A law enforcement agency may

6 (1) not return property in its custody to the owner or the agent of the  
 7 owner if

8 (A) [(1)] the property is [NOT] in custody in connection with  
 9 a children's court proceeding, a criminal proceeding, or an official investigation  
 10 of a crime; or

11 (B) [AND (2)] the property in custody is [NOT] subject to  
 12 forfeiture under the laws of the

13 (i) state; or

14 (ii) United States, and the United States has

1 commenced forfeiture proceedings against the property or has  
2 requested the transfer of the property for the commencement of  
3 forfeiture proceedings; and

4 (2) with the approval of the court, transfer the property to another  
5 state or federal law enforcement agency for forfeiture proceedings by that agency;  
6 the court having jurisdiction shall grant the approval under this paragraph if the  
7 property

8 (A) will be retained within the jurisdiction of the court by  
9 the agency to which the property is being transferred; or

10 (B) is

11 (i) not needed as evidence; or

12 (ii) needed as evidence, and the property is fungible  
13 or the property's evidentiary value can otherwise be preserved  
14 without retaining the property within the jurisdiction of the court.

15 \* Sec. 2. AS 12.36.030 is amended by adding a new subsection to read:

16 (c) This section does not apply to property that comes into the custody of a  
17 law enforcement agency of a municipality if the municipality has adopted an ordinance  
18 providing for the custody and disposition of the property and if the ordinance requires  
19 that

20 (1) property held or collected as evidence in a children's court  
21 proceeding, a criminal proceeding, or an official investigation of a crime is to be held  
22 until at least 30 days after final disposition of the case to which the evidence pertains;  
23 and

24 (2) the municipality make reasonable attempts to identify and locate the  
25 owner of the property that is unclaimed.

26 \* Sec. 3. AS 12.36.040 is amended by adding a new subsection to read:

27 (b) This section does not apply to property that comes into the custody of a  
28 law enforcement agency of a municipality that has adopted an ordinance providing for  
29 the custody and disposition of property that meets the requirements specified in  
30 AS 12.36.030(c).

31 \* Sec. 4. AS 12.36.060(a) is amended to read:

1 (a) A deadly weapon forfeited to the state under AS 12.55.015(a)(9), unless  
2 remitted under AS 12.36.050, shall be disposed of by the commissioner of public  
3 safety under this section. The commissioner of public safety may declare a weapon  
4 surplus and transfer it to the commissioner of administration. A weapon suitable for  
5 law enforcement purposes, ballistics testing, training, or identification may be retained  
6 by the Department of Public Safety or transferred to the municipal law enforcement  
7 agency making the arrest that led to the forfeiture. A weapon that is unsafe or  
8 unlawful shall be destroyed.

9 \* Sec. 5. AS 12.55.015(a) is amended to read:

10 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing  
11 sentence on a defendant convicted of an offense, may singly or in combination

12 (1) impose a

13 (A) fine when authorized by law and as provided in  
14 AS 12.55.035; or

15 (B) [A] day fine when authorized by law and as provided in  
16 AS 12.55.036, if the court does not impose a term of periodic or continuous  
17 imprisonment or place the defendant on probation;

18 (2) order the defendant to be placed on probation under conditions  
19 specified by the court that may include provision for active supervision;

20 (3) impose a definite term of periodic imprisonment;

21 (4) impose a definite term of continuous imprisonment;

22 (5) order the defendant to make restitution under AS 12.55.045;

23 (6) order the defendant to carry out a continuous or periodic program of  
24 community work under AS 12.55.055;

25 (7) suspend execution of all or a portion of the sentence imposed under  
26 AS 12.55.080;

27 (8) suspend imposition of sentence under AS 12.55.085;

28 (9) order the forfeiture to the commissioner of public safety or a  
29 municipal law enforcement agency of a deadly weapon that was in the actual  
30 possession of or used by the defendant during the commission of an offense described  
31 in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

32 (10) order the defendant, while incarcerated, to participate in or comply

1 with the treatment plan of a rehabilitation program that is related to the defendant's  
2 offense or to the defendant's rehabilitation if the program is made available to the  
3 defendant by the Department of Corrections.

4 \* Sec. 6. AS 12.55.015(c) is amended to read:

5 (c) In addition to the penalties authorized by this section, the court may invoke  
6 any authority conferred by law to order a forfeiture of property, suspend or revoke a  
7 license, remove a person from office, or impose any other civil penalty. When  
8 forfeiting property under this subsection, a court may award to a municipal law  
9 enforcement agency that participated in the arrest or conviction of the defendant,  
10 the seizure of property, or the identification of property for seizure, (1) the property  
11 if the property is worth \$5,000 or less and is not money or some other thing that  
12 is divisible, (2) up to 75 percent of the property or the value of the property if the  
13 property is worth more than \$5,000 or is money or some other thing that is  
14 divisible. In determining the percentage a municipal law enforcement agency may  
15 receive under this subsection, the court shall consider the municipal law  
16 enforcement agency's total involvement in the case relative to the involvement of the  
17 state.

18 \* Sec. 7. AS 17.30.112 is amended by adding a new subsection to read:

19 (c) When forfeiting property under (a) of this section, a court may award to a  
20 municipal law enforcement agency that participated in the arrest or conviction of the  
21 defendant, the seizure of property, or the identification of property for seizure, (1) the  
22 property if the property is worth \$5,000 or less and is not money or some other thing  
23 that is divisible, (2) up to 75 percent of the property or the value of the property if the  
24 property is worth more than \$5,000 or is money or some other thing that is divisible.  
25 In determining the percentage a municipal law enforcement agency may receive under  
26 this subsection, the court shall consider the municipal law enforcement agency's total  
27 involvement in the case relative to the involvement of the state.

28 \* Sec. 8. AS 17.30.114(b) is amended to read:

29 (b) Property taken or detained under (a) of this section shall be held in the  
30 custody of either the commissioner of public safety or a municipal law enforcement  
31 agency authorized by the commissioner of public safety to retain custody of property  
32 listed in AS 17.30.110 subject only to the orders and decrees of the court having



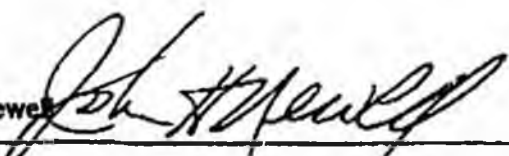
# Alaska State Legislature

Please enter into the record my testimony to the House Judiciary  
 committee name  
 committee on CS for HB295, Forfeitures of property dated 2/28/96  
 bill/subject

I strongly support legislation that will allow municipalities to participate in forfeitures of property. Throughout Alaska, and particularly in Southeast, law enforcement works jointly in many cases. Each participating agency puts resources into the effort. In these joint efforts, the participating agencies should be allowed to share the forfeitures that may result.

In a somewhat different situation, many municipal agencies carry an investigation from beginning to end which result in arrest, prosecution, conviction and forfeiture of property. Serious crime is charged under state law and prosecuted in state court even when the case is brought forwarded by a municipal law enforcement agency. In these cases it is fair and just that any forfeiture of property be granted to the municipality that worked the case.

I urge the members of the legislature to pass HB 295.

Signed: John H. Newell   
 Testifier President of the Alaska Association Chiefs of Police  
Chief of Police, Sitka  
 Representing (Optional)  
304 Lake St, Sitka, AK 99835  
 Address 907-747-3349  
 Phone No. \_\_\_\_\_

# Alaska State Legislature

## Representative Brian S. Porter

CHAIRMAN  
HOUSE JUDICIARY COMMITTEE

MEMBER  
HOUSE LABOR & COMMERCE COMMITTEE  
HOUSE STATE AFFAIRS COMMITTEE  
INTERNATIONAL TRADE & TOURISM  
COMMITTEE

MEMBER  
FINANCE SUBCOMMITTEES  
DEPARTMENT OF LAW  
DEPARTMENT OF EDUCATION  
COURTS



### DISTRICT 20

CSHB ~~259~~ (2d JUD)

### Sponsor Statement

SESSION:  
STATE CAPITOL, ROOM 116  
JUNEAU, ALASKA 99801-1192  
PHONE: (907) 485-4930  
FAX: (907) 485-3834

INTERIM:  
716 W. 4TH AVE., SUITE 640  
ANCHORAGE, AK 99501-2133  
PHONE: (907) 258-8197  
FAX: (907) 258-5510

#### Purpose:

To promote cooperative law enforcement efforts in drug trafficking and other investigations. The bill ensures equitable transfer of forfeited property to the appropriate state or local law enforcement agency so as to reflect the agency's contribution of participating directly in any of the acts which led to seizure or forfeiture of such property.

#### Implementation:

HB 259 is designed to implement certain asset forfeiture provisions pertaining to the disposition of forfeited property and the discontinuance of federal forfeiture actions to permit forfeiture by state or local procedures.

HB 259 allows the state or local law enforcement agency, by court approval, to dispose of criminal forfeited property by: (1) retaining the property for official use; (2) transferring custody or ownership of the property to any federal, state, or local agency; (3) placing the forfeited cash or proceeds of sale of forfeited property in an appropriation to any State or local law enforcement agency.

HB 259 authorizes municipalities which have specific code provisions regarding disposal of property by municipal law enforcement agencies to follow those ordinances rather than the state statutes.

# Alaska State Legislature

**Representative Brian S. Porter**

CHAIRMAN  
HOUSE JUDICIARY COMMITTEE

MEMBER  
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HOUSE STATE AFFAIRS COMMITTEE  
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COMMITTEE

MEMBER  
FINANCE SUBCOMMITTEES  
DEPARTMENT OF LAW  
DEPARTMENT OF EDUCATION  
COURTS



**DISTRICT 20**

SESSION:  
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## Sectional Analysis CSHB 259 (2d JUD)

“An Act relating to forfeitures of property; and relating to the custody and disposition of property in the custody of municipal law enforcement agencies.”

### Chapter 36 Disposition of Recovered or Seized Property

#### **Section 1. AS 12.36.020. Return of property.**

Provides that a state or municipal law enforcement agency may not return property to the owner if the property is used for evidence in a criminal proceeding or subject to a forfeiture proceeding. If the property is subject to forfeiture proceedings a law enforcement agency may transfer the property, with court approval, to another state or federal law enforcement agency. When granting approval, the court shall consider the elements set forth in section 1(a)(2).

#### **Section 2. AS 12.36.030. Disposal of unclaimed property used as evidence.**

Exempts from AS 12.36 municipalities that have adopted ordinances providing for the custody and disposition of property that is held by the municipality's law enforcement agency, if the ordinances meet two conditions. The conditions require (1) certain evidentiary property to be held a certain time, and (2) the municipality to make reasonable attempts to identify and locate the owner of unclaimed property.

#### **Section 3. AS 12.36.040 Disposal of property when owner unknown.**

Conforms the section to the new provisions in sec 2. of the bill.

#### **Section 4. AS 12.36.060 Disposal of forfeited deadly weapons.**

Clarifies existing law, that when a deadly weapon is forfeited to the state, it shall be disposed of by the commissioner of public safety.

#### **Section 5. AS 12.55.015 Authorized sentences.**

When a deadly weapon is used in the commission of a crime the court shall order the forfeiture to the commissioner of public safety or municipal law enforcement agency.

**Section 6. AS 12.55.015 Authorized sentences.**

Provides that when the court sentences a defendant, the court may in combination with the sentence order a forfeiture of property to a municipal law enforcement agency that participated in the arrest or conviction of the defendant. The court may grant the property to the municipal law enforcement agency if the property is valued at \$5,000.00 (five thousand dollars) or less and is not money or something that is divisible (i.e., a vehicle with a value less than \$5,000).

However, if the property is valued above \$5,000.00 or is money or some thing that is divisible, the court may grant up to 75 per cent of the property value to the municipal enforcement agency. This section also outlines provisions for the court to consider when establishing the percentage of the value of the property granted to the municipal agency.

**Chapter 30 Controlled Substances**

**Section 7. AS 17.30.112 Proceedings resulting in forfeiture.**

Conforms the section to the new provisions in sec. 6 in the bill.

**Section 8. AS 17.30.114(b) Seizure and custody of property.**

Conforms the section to the new provisions in sec. 1 in the bill. Provides, upon court approval, that when the state or municipal agency has taken or detained property, they may transfer the property to another state or federal law enforcement agency.

**Chapter 45. Unclaimed Property**

**Section 9 and 10. AS 34.45.230. Property held by courts and public agencies.**

Provides that the provisions otherwise governing the disposition of certain abandoned property do not apply to the listed property turned over to or recovered by a municipality's law enforcement agency if the municipality has adopted an ordinance providing for the custody and disposition of the property.