

HB

318

Alaska State Legislature

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Sponsor Statement

HB 318

"An Act relating to property disposal by law enforcement agencies."

Common law, the basis of modern-day law, provides that a private individual who finds property and takes the responsibility to give it into safekeeping has a greater right to claim that property than anyone else other than the true owner of the property. This makes sense. Unfortunately, Alaska Statute provides less than clear guidance to state departments about what they may do when an individual finds property and turns it in.

HB 318 affects property that is lost, mislaid, or delivered to a private individual by mistake, and turned in to a law enforcement agency, and is unclaimed by the rightful owner for one year.

HB 318:

- Allows private individuals who responsibly deliver property to a law enforcement agency to own that property after one year if possession of that property by that private individual is otherwise legal.
- Would not affect any municipal ordinance.
- Provides clear guidance to state law enforcement agencies.
- Encourages individuals to turn property into law enforcement agencies to find the rightful owner.

The Alaska Department of Public Safety and the Alaska Department of Revenue support this legislation, and I urge your support.



Alaska State Legislature
Representative Con Bunde
District 18

Vice Chair: House Finance Committee
Member: Legislative Budget & Audit Committee

Analysis of HB 318 – “Return Found Property to Finder”

HB 318:

- 1) **Is based on Common Law:**
 - a) Provides that a finder of lost property who takes the responsibility to give the in to safekeeping, acquires title to the found property against all but the true owner.
 - b) Lost property is property unintentionally lost by the true owner
 - c) Treasure trove is coin, money, or other precious commodities concealed in the earth and is treated as lost property in the U.S.
 - d) Mislaid goods are those which were intentionally placed by the owner where they were found (safe deposit boxes, banks, stocks, etc) and then forgotten or left. The finder of misplaced property does not have right of possession, but is considered to be holding the goods for the true owner.

- 2) **Clarifies current Alaska Statute 12.36, “Disposition of Recovered or Seized Property, which only covers**
 - a) property used as evidence of a crime,
 - b) property used in a children’s court proceeding, and
 - c) when the property is subject to state or federal forfeiture laws

- 3) **In all other instances, under AS 12.36.040, any unclaimed property that is a gun:**
 - a) must be sold to a federally licensed gun dealer

- 4) **HB 318 will:**
 - a) only affect property that is not evidence of a crime (AS 12.36)
 - b) only affect property that is legal to possess (lines 9 & 10 of bill)
 - c) provides clear guidance to law enforcement officials (Dept. of Public Safety)
 - d) encourage people to turn property in to proper law enforcement officials (Dept. of Public Safety)
 - e) only affect private individuals (line 5 of the bill)

- 5) **HB 318 will not affect:**
 - a) property loaned to or held by museums (HB 218) (AS 14.57 covers HB 218)
 - b) property found within municipalities or boroughs (lines 11 – 14 of the bill)
 - c) prehistoric, archaeological, historical, Native, or similar property -- (AS 41.35.200 -- the Historic Preservation Act)
 - d) property that is not legal to be possessed, or people who may not possess certain property (sawed off shotguns, moon rocks, convicted felons, etc.) (Line 10 of the bill)
 - e) companies, institutions, banks, state employees who find property in the course of their job (Line 13 – “private individual”)
 - f) Intangible property, i.e.: bonds, safe deposit boxes (AS 34.35, Uniform Unclaimed Property Act”)

- 6) **The Department of Public Safety supports this legislation.**

- 7) **There is a zero fiscal note.**

MEMORANDUM

State of Alaska

Department of Revenue, Office of the Commissioner

TO: Representative Con Bunde

DATE: Jan. 27, 2000

PHONE: 465-5469

FROM: Larry Persily
Deputy Commissioner

SUBJECT: HB 318

The Department of Revenue has reviewed House Bill 318 (An Act Relating to Property Disposal by Law Enforcement Agencies) and believes it would not affect the operations of the Unclaimed Property Section at the department's Tax Division.

Please let me know if I can offer any additional information on the bill or our unclaimed property operations.