

By: Senator(s) Bryan

To: Finance

SENATE BILL NO. 2741  
(As Passed the Senate)

1 AN ACT TO AMEND SECTIONS 63-21-5 AND 63-21-16, MISSISSIPPI  
2 CODE OF 1972, TO AUTHORIZE ALL DESIGNATED AGENTS APPOINTED BY THE  
3 STATE TAX COMMISSION TO ELECTRONICALLY TRANSMIT TO THE STATE TAX  
4 COMMISSION MOTOR VEHICLE TITLE INFORMATION; AND FOR RELATED  
5 PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. Section 63-21-5, Mississippi Code of 1972, is  
8 amended as follows:

9 63-21-5. The following words and phrases when used in this  
10 chapter shall, for the purpose of this chapter, have the meanings  
11 respectively ascribed to them in this section except where the  
12 context clearly indicates a different meaning:

13 (a) "State Tax Commission" shall mean the State Tax  
14 Commission of the State of Mississippi.

15 (b) The term "dealer" shall mean every person engaged  
16 regularly in the business of buying, selling or exchanging motor  
17 vehicles, trailers, semitrailers, trucks, tractors or other  
18 character of commercial or industrial motor vehicles in this  
19 state, and having in this state an established place of business  
20 as defined in Section 27-19-303, Mississippi Code of 1972.

21 (c) The term "designated agent" shall mean each county  
22 tax collector in this state who may perform his duties under this  
23 chapter either personally or through any of his deputies, or such  
24 other persons as the State Tax Commission may designate. The term  
25 shall also mean those "dealers" as herein defined and/or their  
26 officers and employees, and other persons who are appointed by the  
27 State Tax Commission in the manner provided in Section 63-21-13,

28 Mississippi Code of 1972, to perform the duties of "designated  
29 agent" for the purposes of this chapter.

30 (d) The term "implement of husbandry" shall mean every  
31 vehicle designed and adapted exclusively for agricultural,  
32 horticultural or livestock raising operations or for lifting or  
33 carrying an implement of husbandry and in either case not subject  
34 to registration if used upon the highways.

35 (e) The term "vehicle identification number" shall mean  
36 the numbers and letters on a vehicle designated by the  
37 manufacturer or assigned by the State Tax Commission for the  
38 purpose of identifying the vehicle.

39 (f) The term "lien" means every kind of written lease  
40 which is substantially equivalent to an installment sale or which  
41 provides for a right of purchase; conditional sale; reservation of  
42 title; deed of trust; chattel mortgage; trust receipt; and every  
43 other written agreement or instrument of whatever kind or  
44 character whereby an interest other than absolute title is sought  
45 to be held or given on a motor vehicle.

46 (g) The term "lienholder" shall mean any natural  
47 person, firm, copartnership, association or corporation holding a  
48 lien as herein defined on a motor vehicle.

49 (h) The term "manufacturer" shall mean any person  
50 regularly engaged in the business of manufacturing, constructing  
51 or assembling motor vehicles, either within or without this state.

52 (i) The term "motorcycle" shall mean every motor  
53 vehicle having a seat or saddle for the use of the rider and  
54 designed to travel on not more than three (3) wheels in contact  
55 with the ground, but excluding a farm tractor.

56 (j) The term "motor vehicle" shall include every  
57 automobile, motorcycle, mobile trailer, semitrailer, truck, truck  
58 tractor, trailer and every other device in, upon, or by which any  
59 person or property is or may be transported or drawn upon a public  
60 highway which is required to have a road or bridge privilege  
61 license, except such as is moved by animal power or used  
62 exclusively upon stationary rails or tracks.

63 (k) The term "new vehicle" shall mean a motor vehicle  
64 which has never been the subject of a first sale for use.

65           (1) The term "used vehicle" shall mean a motor vehicle  
66 that has been the subject of a first sale for use, whether within  
67 this state or elsewhere.

68           (m) The term "owner" shall mean a person or persons  
69 holding the legal title of a vehicle; in the event a vehicle is  
70 the subject of a deed of trust or a chattel mortgage or an  
71 agreement for the conditional sale or lease thereof or other like  
72 agreement, with the right of purchase upon performance of the  
73 conditions stated in the agreement and with the immediate right of  
74 possession vested in the grantor in the deed of trust, mortgagor,  
75 conditional vendee or lessee, said grantor, mortgagor, conditional  
76 vendee or lessee shall be deemed the owner for the purpose of this  
77 chapter.

78           (n) The term "person" shall include every natural  
79 person, firm, copartnership, association or corporation.

80           (o) The term "pole trailer" shall mean every vehicle  
81 without motive power designed to be drawn by another vehicle and  
82 attached to the towing vehicle by means of a reach or pole, or by  
83 being boomed or otherwise secured to the towing vehicle, and  
84 ordinarily used for transporting long or irregularly shaped loads  
85 such as poles, pipes, boats or structural members capable  
86 generally of sustaining themselves as beams between the supporting  
87 connections.

88           (p) The term "security agreement" shall mean a written  
89 agreement which reserves or creates a security interest.

90           (q) The term "security interest" shall mean an interest  
91 in a vehicle reserved or created by agreement and which secures  
92 payment or performance of an obligation. The term includes the  
93 interest of a lessor under a lease intended as security. A  
94 security interest is "perfected" when it is valid against third  
95 parties generally, subject only to specific statutory exceptions.

96           (r) The term "special mobile equipment" shall mean  
97 every vehicle not designed or used primarily for the

98 transportation of persons or property and only incidentally  
99 operated or moved over a highway, including, but not limited to:  
100 ditch-digging apparatus, well-boring apparatus and road  
101 construction and maintenance machinery such as asphalt spreaders,  
102 bituminous mixers, bucket loaders, tractors other than truck  
103 tractors, ditchers, leveling graders, finishing machines, motor  
104 graders, road rollers, scarifiers, earth-moving carryalls and  
105 scrapers, power shovels and draglines, and self-propelled cranes,  
106 vehicles so constructed that they exceed eight (8) feet in width  
107 and/or thirteen (13) feet six (6) inches in height, and  
108 earth-moving equipment. The term does not include house trailers,  
109 dump trucks, truck-mounted transit mixers, cranes or shovels, or  
110 other vehicles designed for the transportation of persons or  
111 property to which machinery has been attached.

112 (s) The term "nonresident" shall mean every person who  
113 is not a resident of this state.

114 (t) The term "current address" shall mean a new address  
115 different from the address shown on the application or on the  
116 certificate of title. The owner shall within thirty (30) days  
117 after his address is changed from that shown on the application or  
118 on the certificate of title notify the State Tax Commission of the  
119 change of address in the manner prescribed by the State Tax  
120 Commission.

121 (u) The term "odometer" shall mean an instrument for  
122 measuring and recording the actual distance a motor vehicle  
123 travels while in operation; but shall not include any auxiliary  
124 instrument designed to be reset by the operator of the motor  
125 vehicle for the purpose of recording the distance traveled on  
126 trips.

127 (v) The term "odometer reading" shall mean the actual  
128 cumulative distance traveled disclosed on the odometer.

129 (w) The term "odometer disclosure statement" shall mean  
130 a statement certified by the owner of the motor vehicle to the

131 transferee or to the State Tax Commission as to the odometer  
132 reading.

133 (x) The term "mileage" shall mean actual distance that  
134 a vehicle has traveled.

135 SECTION 2. Section 63-21-16, Mississippi Code of 1972, is  
136 amended as follows:

137 63-21-16. (1) \* \* \* All designated agents appointed by the  
138 State Tax Commission under Section 63-21-13(3), Mississippi Code  
139 of 1972, may electronically transmit to the State Tax Commission  
140 information entered by them on applications for a certificate of  
141 title given in connection with the sale or transfer of a motor  
142 vehicle, or a loan for which the owner's motor vehicle is pledged  
143 to that institution as collateral for the loan. The format and  
144 the data required to be transmitted shall be established by the  
145 State Tax Commission. Transmission of data shall meet minimum  
146 criteria and edits established by the State Tax Commission equal  
147 to any edit presently existing in the statewide title registration  
148 system, or as may be established, to which the county tax  
149 collectors shall also conform. All data transmitted must  
150 successfully pass established edits of vehicle identification  
151 number, title number, year, make, series, body style, title type,  
152 lienholder name, mailing address and lienholder account number  
153 assigned to a lienholder by the State Tax Commission to identify  
154 the lienholder, for the purpose of causing the data to appear in  
155 the certificate of title for which the application is made.

156 (2) It shall be the responsibility of the designated agent  
157 to verify all data before it is electronically transmitted. It  
158 shall also be the responsibility of the designated agent to ensure  
159 that the required certification of designated agent and the  
160 certification of statement of facts that are contained on the  
161 application for certificate of title appear above the signatures  
162 of both the owner and the authorized representative of the  
163 designated agent. Data which cannot be transmitted because of

164 error shall be corrected by the designated agent when the  
165 statewide title registration system indicates that the data is  
166 erroneous or is not valid for the purposes of titling the motor  
167 vehicle or for transfer of the data.

168 (3) When an institution has agreed to loan money for the  
169 purchase of a motor vehicle, the institution shall complete an  
170 application for certificate of title or require the borrower to  
171 provide to the institution the copy of the application for  
172 certificate of title contained in the application packet which is  
173 designated "Lienholder's Copy" according to provisions of the  
174 Motor Vehicle Title Law, which the owner will receive from the  
175 county tax collector or any designated agent upon completion of  
176 the application for title and registration process.

177 (4) An application for certificate of title originating from  
178 a designated agent shall be entered on the statewide title  
179 registration system by the originating lending institution when  
180 the transaction is for the purpose of perfecting the institution's  
181 interest in a vehicle currently owned or purchased by the  
182 applicant, in connection with application for certificate of title  
183 or the purchase of a license tag or both.

184 (5) When an institution in this state adds a second lien on  
185 a certificate of title in possession of a first lienholder  
186 institution in this state, the second lienholder institution  
187 seeking to be shown on the certificate of title shall:

188 (a) Prepare the application for certificate of title in  
189 accordance with the requirements of Sections 63-21-15 and  
190 63-21-45(c);

191 (b) Obtain all required signatures; and

192 (c) Forward the completed application for certificate  
193 of title to the first lienholder together with any necessary  
194 remittance advice, a check for the title fee payable to the State  
195 Tax Commission and a cover letter to the first lienholder  
196 requesting that the first lienholder attach the certificate of

197 title to the required documents sent by the second lienholder and  
198 then forward the application, certificate of title and required  
199 documents to the State Tax Commission.

200 (6) Upon receipt of the application for certificate of title  
201 from the second lienholder institution to record the second lien,  
202 the first lienholder institution shall compare the data contained  
203 in the application for certificate of title to the information  
204 contained in the original certificate of title. If the first  
205 lienholder institution is satisfied as to the ownership, accuracy  
206 and order of priority of liens as shown in the application, it  
207 shall enter the data contained on the application for certificate  
208 of title prepared by the second lienholder on the statewide title  
209 registration system, including the designated agent number of the  
210 second lienholder. After entering the data from the application  
211 for certificate of title, the first lienholder institution shall  
212 immediately forward the application for certificate of title with  
213 the certificate of title attached to the application, the  
214 remittance advice and the second lienholder's check for the title  
215 fee to the State Tax Commission within three (3) working days.

216 (7) In an assignment of lien pursuant to Section 63-21-47,  
217 the assignee shall receive the notice of assignment along with the  
218 current title attached and with the assignors interest open. The  
219 assignee lienholder shall prepare an application for certificate  
220 of title according to the notice of assignment, showing the  
221 assignee institution as the lienholder, and then shall  
222 electronically transmit the data to the State Tax Commission.  
223 The completed application shall be forwarded to the State Tax  
224 Commission within three (3) working days.

225 (8) The State Tax Commission, upon receipt of applications  
226 for certificate of title, shall verify the data by accessing it on  
227 the statewide title registration system by the title application  
228 control number appearing on the application for title. After  
229 receiving verification that is satisfactory to the State Tax

230 Commission that the data necessary for the issuance of a new  
231 certificate of title exists, the State Tax Commission shall issue  
232 a new certificate of title that records the interests of all the  
233 parties named in the application for certificate of title.

234 (9) Designated agents shall be connected to the statewide  
235 title registration system for the purpose of electronic transfer  
236 of applications for certificate of title data in the order of  
237 priority established by the State Tax Commission.

238 (10) If a participating designated agent fails to comply  
239 with the provisions of this section or the rules adopted by the  
240 State Tax Commission to implement this section, the State Tax  
241 Commission may impose a penalty of Twenty-five Dollars (\$25.00)  
242 for each instance of noncompliance. Any penalty imposed under  
243 this section not paid within thirty (30) days after a notice is  
244 given shall be subject to collection from the bond of the  
245 designated agent that is required to be provided under the  
246 provisions of Section 63-21-13(3). The penalty provided shall  
247 also be assessable, due and collectible from any licensed motor  
248 vehicle dealer for failure to accept an application for  
249 certificate of title for each and every vehicle he sells to a  
250 consumer. These penalties shall be cumulative, supplemental and  
251 in addition to the penalties provided by any other law.

252 (11) This section shall apply to all designated agents  
253 appointed by the State Tax Commission under Section 63-21-13(3),  
254 that choose to electronically transmit information on applications  
255 for certificates of title to the State Tax Commission. This  
256 section shall not apply to other designated agents.

257 SECTION 3. This act shall take effect and be in force from  
258 and after July 1, 1999.