

By: Senator(s) Bryan

To: Finance

SENATE BILL NO. 2741
(As Sent to Governor)

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.