

By: Representative Watson

To: Judiciary A

HOUSE BILL NO. 1205

1 AN ACT TO AMEND SECTION 41-29-181, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE DISPOSITION OF FORFEITED PROPERTY IN DRUG CASES; AND  
3 FOR RELATED PURPOSES.

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

5 SECTION 1. Section 41-29-181, Mississippi Code of 1972, is  
6 amended as follows:

7 41-29-181. (1) Regarding all controlled substances, raw  
8 materials and paraphernalia which have been forfeited, the circuit  
9 court shall by its order direct the Bureau of Narcotics to:

10 (a) Retain the property for its official purposes;

11 (b) Deliver the property to a government agency or  
12 department for official purposes;

13 (c) Deliver the property to a person authorized by the  
14 court to receive it; or

15 (d) Destroy the property that is not otherwise  
16 disposed, pursuant to the provisions of Section 41-29-154.

17 (2) All other property, real or personal, which is forfeited  
18 under this article, except as otherwise provided in Section  
19 41-29-185, and except as provided in subsections (3), (7) and (8)  
20 of this section, shall be liquidated and, after deduction of court  
21 costs and the expenses of liquidation, the proceeds shall be  
22 divided and deposited as follows:

23 (a) In the event only one law enforcement agency  
24 participates in the underlying criminal case out of which the  
25 forfeiture arises, twenty percent (20%) of the proceeds shall be  
26 forwarded to the State Treasurer and deposited in the General Fund  
27 of the state and eighty percent (80%) of the proceeds shall be

28 deposited and credited to the budget of the participating law  
29 enforcement agency.

30 (b) In the event more than one law enforcement agency  
31 participates in the underlying criminal case out of which the  
32 forfeiture arises, eighty percent (80%) of the proceeds shall be  
33 deposited and credited to the budget of the law enforcement agency  
34 whose officers initiated the criminal case, with the exception of  
35 the Mississippi Bureau of Narcotics, and twenty percent (20%)  
36 shall be divided equitably between or among the other  
37 participating law enforcement agencies, and shall be deposited and  
38 credited to the budgets of the participating law enforcement  
39 agencies. In the event that the other participating law  
40 enforcement agencies cannot agree on the division of their twenty  
41 percent (20%), a petition shall be filed by any one of them in the  
42 court in which the civil forfeiture case is brought and the court  
43 shall make an equitable division.

44 If the criminal case is initiated by an officer of the  
45 Mississippi Bureau of Narcotics and more than one (1) law  
46 enforcement agency participates in the underlying criminal case  
47 out of which the forfeiture arises, only twenty percent (20%) of  
48 the proceeds shall be deposited and credited to the budget of the  
49 Mississippi Bureau of Narcotics and eighty percent (80%) shall be  
50 divided equitably between or among the other participating law  
51 enforcement agencies, and shall be deposited and credited to the  
52 budgets of the participating law enforcement agencies. In the  
53 event that the other participating law enforcement agencies cannot  
54 agree on the division of their eighty percent (80%), a petition  
55 shall be filed by any one of them in the court in which the civil  
56 forfeiture case is brought and the court shall make an equitable  
57 division.

58 (3) All money which is forfeited under this article, except  
59 as otherwise provided by Section 41-29-185, shall be divided,

60 deposited and credited in the same manner as set forth in  
61 subsection (2) of this section.

62 (4) All property forfeited, deposited and credited to the  
63 Mississippi Bureau of Narcotics under this article shall be  
64 forwarded to the State Treasurer and deposited in a special fund  
65 for use by the Mississippi Bureau of Narcotics upon appropriation  
66 by the Legislature.

67 (5) All real estate which is forfeited under the provisions  
68 of this article shall be sold to the highest and best bidder at a  
69 public auction for cash, such auction to be conducted by the chief  
70 law enforcement officer of the initiating law enforcement agency,  
71 or his designee, at such place, on such notice and in accordance  
72 with the same procedure, as far as practicable, as is required in  
73 the case of sales of land under execution at law. The proceeds of  
74 such sale shall first be applied to the cost and expense in  
75 administering and conducting such sale, then to the satisfaction  
76 of all mortgages, deeds of trust, liens and encumbrances of record  
77 on such property. The remaining proceeds shall be divided,  
78 forwarded and deposited in the same manner set out in subsection  
79 (2) of this section.

80 (6) All other property that has been forfeited shall, except  
81 as otherwise provided, be sold at a public auction for cash by the  
82 chief law enforcement officer of the initiating law enforcement  
83 agency, or his designee, to the highest and best bidder after  
84 advertising the sale for at least once each week for three (3)  
85 consecutive weeks, the last notice to appear not more than ten  
86 (10) days nor less than five (5) days prior to such sale, in a  
87 newspaper having a general circulation in the jurisdiction in  
88 which said law enforcement agency is located. Such notices shall  
89 contain a description of the property to be sold and a statement  
90 of the time and place of sale. It shall not be necessary to the  
91 validity of such sale either to have the property present at the  
92 place of sale or to have the name of the owner thereof stated in

93 such notice. The proceeds of the sale shall be disposed of as  
94 follows:

95 (a) To any bona fide lienholder, secured party, or  
96 other party holding an interest in the property in the nature of a  
97 security interest, to the extent of his interest; and

98 (b) The balance, if any, remaining after deduction of  
99 all storage, court costs and expenses of liquidation shall be  
100 divided, forwarded and deposited in the same manner set out in  
101 subsection (2) of this section.

102 (7) Any county or municipal law enforcement agency may  
103 maintain, repair, use and operate for official purposes all  
104 property, other than real property, money or such property that is  
105 described in subsection (1) of this section, that has been  
106 forfeited to the agency if it is free from any interest of a bona  
107 fide lienholder, secured party or other party who holds an  
108 interest in the property in the nature of a security interest.  
109 Such county or municipal law enforcement agency may purchase the  
110 interest of a bona fide lienholder, secured party or other party  
111 who holds an interest so that the property can be released for its  
112 use. If the property is a motor vehicle susceptible of titling  
113 under the Mississippi Motor Vehicle Title Law, the law enforcement  
114 agency shall be deemed to be the purchaser, and the certificate of  
115 title shall be issued to it as required by subsection (9) of this  
116 section.

117 (8) The Mississippi Bureau of Narcotics may maintain,  
118 repair, use and operate for official purposes all property, other  
119 than real property, money or such property as is described in  
120 subsection (1) of this section, that has been forfeited to the  
121 bureau if it is free from any interest of a bona fide lienholder,  
122 secured party, or other party who holds an interest in the  
123 property in the nature of a security interest. In such case, the  
124 bureau may purchase the interest of a bona fide lienholder,

125 secured party, or other party who holds an interest so that such  
126 property can be released for use by the bureau.

127         The bureau may maintain, repair, use and operate such  
128 property with money appropriated to the bureau for current  
129 operations. If the property is a motor vehicle susceptible of  
130 titling under the Mississippi Motor Vehicle Title Law, the bureau  
131 is deemed to be the purchaser and the certificate of title shall  
132 be issued to it as required by subsection (9) of this section.

133         (9) The State Tax Commission shall issue a certificate of  
134 title to any person who purchases property under the provisions of  
135 this section when a certificate of title is required under the  
136 laws of this state.

137         SECTION 2. This act shall take effect and be in force from  
138 and after July 1, 2001.