

By: Representative Moak

To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 837

1 AN ACT TO AMEND SECTION 41-29-181, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE A SHERIFF'S DEPARTMENT OR MUNICIPAL POLICE DEPARTMENT
3 TO WHICH A VEHICLE HAS BEEN FORFEITED AND TRANSFERRED TO TRANSFER
4 THE VEHICLE TO ANY DEPARTMENT, PUBLIC OFFICIAL OR EMPLOYEE OF THE
5 COUNTY OR MUNICIPALITY AS THE BOARD OF SUPERVISORS OR MUNICIPAL
6 GOVERNING AUTHORITY MAY DIRECT FOR USE BY SUCH DEPARTMENT,
7 OFFICIAL OR EMPLOYEE IN THE PERFORMANCE OF OFFICIAL DUTIES; AND
8 FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 41-29-181, Mississippi Code of 1972, is
11 amended as follows:

12 41-29-181. (1) Regarding all controlled substances, raw
13 materials and paraphernalia which have been forfeited, the circuit
14 court shall by its order direct the Bureau of Narcotics to:

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

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

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

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

22 (2) All other property, real or personal, which is forfeited
23 under this article, except as otherwise provided in Section
24 41-29-185, and except as provided in subsections (3), (7) and (8)
25 of this section, shall be liquidated and, after deduction of court
26 costs and the expenses of liquidation, the proceeds shall be
27 divided and deposited as follows:

28 (a) In the event only one law enforcement agency
29 participates in the underlying criminal case out of which the
30 forfeiture arises, twenty percent (20%) of the proceeds shall be

31 forwarded to the State Treasurer and deposited in the General Fund
32 of the state and eighty percent (80%) of the proceeds shall be
33 deposited and credited to the budget of the participating law
34 enforcement agency.

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

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

63 (3) All money which is forfeited under this article, except
64 as otherwise provided by Section 41-29-185, shall be divided,
65 deposited and credited in the same manner as set forth in
66 subsection (2) of this section.

67 (4) All property forfeited, deposited and credited to the
68 Mississippi Bureau of Narcotics under this article shall be
69 forwarded to the State Treasurer and deposited in a special fund
70 for use by the Mississippi Bureau of Narcotics upon appropriation
71 by the Legislature.

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

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

96 validity of such sale either to have the property present at the
97 place of sale or to have the name of the owner thereof stated in
98 such notice. The proceeds of the sale shall be disposed of as
99 follows:

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

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

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

122 (b) A sheriff's department or municipal police
123 department to which a vehicle has been forfeited and transferred,
124 in the discretion of the sheriff or police chief, may transfer any
125 such vehicle to any county or municipal department of government
126 or to any public official or employee of the county as the board
127 of supervisors or municipal governing authorities may direct for
128 use by such department, official or employee in the performance of

129 his official duties. Thereafter, whenever such vehicle becomes
130 obsolete or is no longer needed for county purposes, it may be
131 disposed of in accordance with Section 19-7-5 or in the manner
132 provided by law for disposing municipal property.

133 (8) The Mississippi Bureau of Narcotics may maintain,
134 repair, use and operate for official purposes all property, other
135 than real property, money or such property as is described in
136 subsection (1) of this section, that has been forfeited to the
137 bureau if it is free from any interest of a bona fide lienholder,
138 secured party, or other party who holds an interest in the
139 property in the nature of a security interest. In such case, the
140 bureau may purchase the interest of a bona fide lienholder,
141 secured party, or other party who holds an interest so that such
142 property can be released for use by the bureau.

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

149 (9) The State Tax Commission shall issue a certificate of
150 title to any person who purchases property under the provisions of
151 this section when a certificate of title is required under the
152 laws of this state.

153 **SECTION 2.** This act shall take effect and be in force from
154 and after July 1, 2004.