

By: Representative Moak

To: Judiciary A

HOUSE BILL NO. 837

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

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

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

10 41-29-181. (1) Regarding all controlled substances, raw
11 materials and paraphernalia which have been forfeited, the circuit
12 court shall by its order direct the Bureau of Narcotics to:

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

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

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

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

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

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

30 of the state and eighty percent (80%) of the proceeds shall be
31 deposited and credited to the budget of the participating law
32 enforcement agency.

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

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

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

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

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

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

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

96 such notice. The proceeds of the sale shall be disposed of as
97 follows:

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

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

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

120 (b) A sheriff's department to which a vehicle has been
121 forfeited and transferred, in the discretion of the sheriff, may
122 transfer any such vehicle to any public official or employee of
123 the county as the board of supervisors may direct for use by such
124 official or employee in the performance of his official duties.
125 Thereafter, whenever such vehicle becomes obsolete or is no longer
126 needed for county purposes, it may be disposed of in accordance
127 with Section 19-7-5.

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

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

144 (9) The State Tax Commission shall issue a certificate of
145 title to any person who purchases property under the provisions of
146 this section when a certificate of title is required under the
147 laws of this state.

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