

## Senate Amendments to House Bill No. 837

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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) (i) If a vehicle is forfeited to or transferred to  
121 a sheriff's department, then the sheriff may transfer the vehicle  
122 to the county for official or governmental use as the board of  
123 supervisors may direct.

124 (ii) If a vehicle is forfeited to or transferred  
125 to a police department, then the police chief may transfer the  
126 vehicle to the municipality for official or governmental use as  
127 the governing authority of the municipality may direct.

128 (c) If a motor vehicle forfeited to a county or  
129 municipal law enforcement agency becomes obsolete or is no longer  
130 needed for official or governmental purposes, it may be disposed  
131 of in accordance with Section 19-7-5 or in the manner provided by  
132 law for disposing of 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 its passage.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

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 THE COUNTY OR MUNICIPALITY AS THE BOARD OF  
5 SUPERVISORS OR MUNICIPAL GOVERNING AUTHORITY MAY DIRECT FOR USE IN  
6 THE PERFORMANCE OF OFFICIAL DUTIES; AND FOR RELATED PURPOSES.

SS02\HB837A.J

John O. Gilbert  
Secretary of the Senate