

By: Senator(s) Little

To: Finance

SENATE BILL NO. 2304
(As Passed the Senate)

1 AN ACT TO AMEND SECTIONS 63-21-5, 63-21-9, 63-21-11 AND
2 63-21-63, MISSISSIPPI CODE OF 1972, TO MAKE IT CLEAR THAT
3 ALL-TERRAIN VEHICLES MAY BE VOLUNTARILY TITLED; TO PROVIDE THAT
4 TITLES TO ALL-TERRAIN VEHICLES MAY BE ISSUED TO NONRESIDENT OWNERS
5 OF SUCH VEHICLES; TO PROVIDE FOR A FEE FOR APPLICATIONS FOR
6 CERTIFICATES OF TITLE FOR ALL-TERRAIN VEHICLES; AND FOR RELATED
7 PURPOSES.

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

9 **SECTION 1.** Section 63-21-5, Mississippi Code of 1972, is
10 amended as follows:

11 63-21-5. The following words and phrases when used in this
12 chapter shall, for the purpose of this chapter, have the meanings
13 respectively ascribed to them in this section except where the
14 context clearly indicates a different meaning:

15 (a) "State Tax Commission" means the State Tax
16 Commission of the State of Mississippi.

17 (b) * * * "Dealer" means every person engaged regularly
18 in the business of buying, selling or exchanging motor vehicles,
19 trailers, semitrailers, trucks, tractors or other character of
20 commercial or industrial motor vehicles in this state, and having
21 in this state an established place of business as defined in
22 Section 27-19-303, Mississippi Code of 1972. The term "dealer"
23 shall also mean every person engaged regularly in the business of
24 buying, selling or exchanging manufactured housing in this state,
25 and licensed as a dealer of manufactured housing by the
26 Mississippi Department of Insurance.

27 (c) * * * "Designated agent" means each county tax
28 collector in this state who may perform his duties under this
29 chapter either personally or through any of his deputies, or such

30 other persons as the State Tax Commission may designate. The term
31 shall also mean those "dealers" as herein defined and/or their
32 officers and employees and other persons who are appointed by the
33 State Tax Commission in the manner provided in Section 63-21-13,
34 Mississippi Code of 1972, to perform the duties of "designated
35 agent" for the purposes of this chapter.

36 (d) * * * "Implement of husbandry" means every vehicle
37 designed and adapted exclusively for agricultural, horticultural
38 or livestock raising operations or for lifting or carrying an
39 implement of husbandry and in either case not subject to
40 registration if used upon the highways.

41 (e) * * * "Vehicle identification number" means the
42 numbers and letters on a vehicle, manufactured home or mobile home
43 designated by the manufacturer or assigned by the State Tax
44 Commission for the purpose of identifying the vehicle,
45 manufactured home or mobile home.

46 (f) * * * "Lien" means every kind of written lease
47 which is substantially equivalent to an installment sale or which
48 provides for a right of purchase; conditional sale; reservation of
49 title; deed of trust; chattel mortgage; trust receipt; and every
50 other written agreement or instrument of whatever kind or
51 character whereby an interest other than absolute title is sought
52 to be held or given on a motor vehicle, manufactured home or
53 mobile home.

54 (g) * * * "Lienholder" means any natural person, firm,
55 copartnership, association or corporation holding a lien as herein
56 defined on a motor vehicle, manufactured home or mobile home.

57 (h) * * * "Manufactured housing" or "manufactured home"
58 means any structure, transportable in one or more sections, which
59 in the traveling mode, is eight (8) body feet or more in width or
60 forty (40) body feet or more in length or, when erected on site,
61 is three hundred twenty (320) or more square feet and which is
62 built on a permanent chassis and designed to be used as a dwelling

63 with or without a permanent foundation when connected to the
64 required utilities, and includes the plumbing, heating,
65 air-conditioning and electrical systems contained therein; except
66 that such terms shall include any structure which meets all the
67 requirements of this paragraph except the size requirements and
68 with respect to which the manufacturer voluntarily files a
69 certification required by the Secretary of Housing and Urban
70 Development and complies with the standards established under the
71 National Manufactured Housing Construction and Safety Standards
72 Act of 1974, 42 USCS, Section 5401.

73 (i) * * * "Manufacturer" means any person regularly
74 engaged in the business of manufacturing, constructing or
75 assembling motor vehicles, manufactured homes or mobile homes,
76 either within or without this state.

77 (j) * * * "Mobile home" means any structure,
78 transportable in one or more sections, which in the traveling
79 mode, is eight (8) body feet or more in width or forty (40) body
80 feet or more in length or, when erected on site, is three hundred
81 twenty (320) or more square feet and which is built on a permanent
82 chassis and designed to be used as a dwelling with or without a
83 permanent foundation when connected to the required utilities, and
84 includes the plumbing, heating, air-conditioning and electrical
85 systems contained therein and manufactured prior to June 15, 1976.

86 (k) * * * "Motorcycle" means every motor vehicle having
87 a seat or saddle for the use of the rider and designed to travel
88 on not more than three (3) wheels in contact with the ground, but
89 excluding a farm tractor.

90 (l) * * * "Motor vehicle" means every automobile,
91 motorcycle, mobile trailer, semitrailer, truck, truck tractor,
92 trailer and every other device in, upon, or by which any person or
93 property is or may be transported or drawn upon a public highway
94 which is required to have a road or bridge privilege license,

95 except such as is moved by animal power or used exclusively upon
96 stationary rails or tracks.

97 (m) * * * "New vehicle" means a motor vehicle,
98 manufactured home or mobile home which has never been the subject
99 of a first sale for use.

100 (n) * * * "Used vehicle" means a motor vehicle,
101 manufactured home or mobile home that has been the subject of a
102 first sale for use, whether within this state or elsewhere.

103 (o) * * * "Owner" means a person or persons holding the
104 legal title of a vehicle, manufactured home or mobile home; in the
105 event a vehicle, manufactured home or mobile home is the subject
106 of a deed of trust or a chattel mortgage or an agreement for the
107 conditional sale or lease thereof or other like agreement, with
108 the right of purchase upon performance of the conditions stated in
109 the agreement and with the immediate right of possession vested in
110 the grantor in the deed of trust, mortgagor, conditional vendee or
111 lessee, said grantor, mortgagor, conditional vendee or lessee
112 shall be deemed the owner for the purpose of this chapter.

113 (p) * * * "Person" includes every natural person, firm,
114 copartnership, association or corporation.

115 (q) * * * "Pole trailer" means every vehicle without
116 motive power designed to be drawn by another vehicle and attached
117 to the towing vehicle by means of a reach or pole, or by being
118 boomed or otherwise secured to the towing vehicle, and ordinarily
119 used for transporting long or irregularly shaped loads such as
120 poles, pipes, boats or structural members capable generally of
121 sustaining themselves as beams between the supporting connections.

122 (r) * * * "Security agreement" means a written
123 agreement which reserves or creates a security interest.

124 (s) * * * "Security interest" means an interest in a
125 vehicle, manufactured home or mobile home reserved or created by
126 agreement and which secures payment or performance of an
127 obligation. The term includes the interest of a lessor under a

128 lease intended as security. A security interest is "perfected"
129 when it is valid against third parties generally, subject only to
130 specific statutory exceptions.

131 (t) * * * "Special mobile equipment" means every
132 vehicle not designed or used primarily for the transportation of
133 persons or property and only incidentally operated or moved over a
134 highway, including, but not limited to: ditch-digging apparatus,
135 well-boring apparatus and road construction and maintenance
136 machinery such as asphalt spreaders, bituminous mixers, bucket
137 loaders, tractors other than truck tractors, ditchers, leveling
138 graders, finishing machines, motor graders, road rollers,
139 scarifiers, earth-moving carryalls and scrapers, power shovels and
140 draglines, and self-propelled cranes, vehicles so constructed that
141 they exceed eight (8) feet in width and/or thirteen (13) feet six
142 (6) inches in height, and earth-moving equipment. The term does
143 not include house trailers, dump trucks, truck-mounted transit
144 mixers, cranes or shovels, or other vehicles designed for the
145 transportation of persons or property to which machinery has been
146 attached.

147 (u) * * * "Nonresident" means every person who is not a
148 resident of this state.

149 (v) * * * "Current address" means a new address
150 different from the address shown on the application or on the
151 certificate of title. The owner shall within thirty (30) days
152 after his address is changed from that shown on the application or
153 on the certificate of title notify the State Tax Commission of the
154 change of address in the manner prescribed by the State Tax
155 Commission.

156 (w) * * * "Odometer" means an instrument for measuring
157 and recording the actual distance a motor vehicle travels while in
158 operation; but shall not include any auxiliary instrument designed
159 to be reset by the operator of the motor vehicle for the purpose
160 of recording the distance traveled on trips.

161 (x) * * * "Odometer reading" means the actual
162 cumulative distance traveled disclosed on the odometer.

163 (y) * * * "Odometer disclosure statement" means a
164 statement certified by the owner of the motor vehicle to the
165 transferee or to the State Tax Commission as to the odometer
166 reading.

167 (z) * * * "Mileage" means actual distance that a
168 vehicle has traveled.

169 (aa) * * * "Trailer" means every vehicle other than a
170 "pole trailer" as defined in this chapter without motive power
171 designed to be drawn by another vehicle and attached to the towing
172 vehicle for the purpose of hauling goods or products. The term
173 "trailer" shall not refer to any structure, transportable in one
174 or more sections regardless of size, when erected on site, and
175 which is built on a permanent chassis and designed to be used as a
176 dwelling with or without a permanent foundation when connected to
177 the required utilities, and includes the plumbing, heating,
178 air-conditioning and electrical systems contained therein
179 regardless of the date of manufacture.

180 (bb) * * * "Salvage mobile home" or "salvage
181 manufactured home" means a mobile home or manufactured home for
182 which a certificate of title has been issued that an insurance
183 company obtains from the owner as a result of paying a total loss
184 claim resulting from collision, fire, flood, wind or other
185 occurrence. The term "salvage mobile home" or "salvage
186 manufactured home" does not mean or include and is not applicable
187 to a mobile home or manufactured home that is twenty (20) years
188 old or older.

189 (cc) "Salvage certificate of title" means a document
190 issued by the State Tax Commission for a salvage mobile home or
191 salvage manufactured home as defined in this chapter.

192 (dd) "All-terrain vehicle" means a motor vehicle that
193 is designed for off-road use and is not required to have a motor
194 vehicle privilege license.

195 **SECTION 2.** Section 63-21-9, Mississippi Code of 1972, is
196 amended as follows:

197 63-21-9. (1) Except as provided in Section 63-21-11, every
198 owner of a motor vehicle as defined in this chapter, which is in
199 this state and which is manufactured or assembled after July 1,
200 1969, or which is the subject of first sale for use after July 1,
201 1969, and every owner of a manufactured home as defined in this
202 chapter, which is in this state and which is manufactured or
203 assembled after July 1, 1999, or which is the subject of first
204 sale for use after July 1, 1999, shall make application to the
205 State Tax Commission for a certificate of title with the following
206 exceptions:

207 (a) Voluntary application for title may be made for any
208 model motor vehicle which is in this state after July 1, 1969, and
209 for any model manufactured home or mobile home which is in this
210 state after July 1, 1999, and any person bringing a motor vehicle,
211 manufactured home or mobile home into this state from a state
212 which requires titling shall make application for title to the
213 State Tax Commission within thirty (30) days thereafter.

214 (b) After July 1, 1969, any dealer, acting for himself,
215 or another, who sells, trades or otherwise transfers any new or
216 used vehicle as defined in this chapter, and after July 1, 1999,
217 any dealer, acting for himself, or another, who sells, trades or
218 otherwise transfers any new or used manufactured home or mobile
219 home as defined in this chapter, or any designated agent, shall
220 furnish to the purchaser or transferee, without charge for either
221 application or certificate of title, an application for title of
222 said vehicle, manufactured home or mobile home and cause to be
223 forwarded to the State Tax Commission any and all documents
224 required by the commission to issue certificate of title to the

225 purchaser or transferee. The purchaser or transferee may then use
226 the duplicate application for title as a permit to operate vehicle
227 as provided in Section 63-21-67, until certificate of title is
228 received.

229 (2) (a) Voluntary application for title may be made for any
230 model all-terrain vehicle which is in this state.

231 (b) A dealer who sells, trades or otherwise transfers
232 any new or used all-terrain vehicles as defined in this chapter,
233 may furnish to the purchaser or transferee, without charge for
234 either application or certificate of title, an application for
235 title of said vehicle, and cause to be forwarded to the State Tax
236 Commission any and all documents required by the commission to
237 issue certificate of title to the purchaser or transferee.

238 (3) Any dealer, acting for himself or another who sells,
239 trades or otherwise transfers any vehicle, manufactured home or
240 mobile home required to be titled under this chapter who does not
241 comply with the provisions of this chapter shall be guilty of a
242 misdemeanor and upon conviction shall be fined a sum not exceeding
243 Five Hundred Dollars (\$500.00).

244 **SECTION 3.** Section 63-21-11, Mississippi Code of 1972, is
245 amended as follows:

246 63-21-11. (1) No certificate of title need be obtained for:

247 (a) A vehicle, manufactured home or mobile home owned
248 by the United States or any agency thereof;

249 (b) A vehicle, manufactured home or mobile home owned
250 by a manufacturer or dealer and held for sale, even though
251 incidentally moved on the highway or used for purposes of testing
252 or demonstration, or a vehicle used by a manufacturer solely for
253 testing;

254 (c) A vehicle, manufactured home or mobile home owned
255 by a nonresident of this state and not required by law to be
256 registered in this state;

- 257 (d) A vehicle regularly engaged in the interstate
- 258 transportation of persons or property for which a currently
- 259 effective certificate of title has been issued in another state;
- 260 (e) A vehicle moved solely by animal power;
- 261 (f) An implement of husbandry;
- 262 (g) Special mobile equipment;
- 263 (h) A pole trailer;
- 264 (i) Utility trailers of less than five thousand (5,000)
- 265 pounds gross vehicle weight.

266 (2) Nothing in this section shall prohibit the issuance of a
 267 certificate of title to the nonresident owner of an all-terrain
 268 vehicle that is purchased in this state.

269 **SECTION 4.** Section 63-21-63, Mississippi Code of 1972, is
 270 amended as follows:

271 63-21-63. There shall be paid to the State Tax Commission
 272 for issuing and processing documents required by this chapter,
 273 fees for motor vehicles according to the following schedule:

- 274 (a) Each application for certificate of title issued
- 275 under Section 63-21-9(2)..... \$8.00;
- 276 (b) Each application for certificate of title not
- 277 issued under Section 63-21-9(2)..... 4.00;
- 278 (c) Each application for replacement or
- 279 corrected certificate of title..... 4.00;
- 280 (d) Each suspension or revocation of
- 281 certificate of title..... 4.00;
- 282 (e) Each notice of security interest..... 4.00;
- 283 (f) Each release of security interest..... 4.00;
- 284 (g) Each assignment by lienholder..... 4.00;
- 285 (h) Each application for information as to
- 286 the status of the title of a vehicle..... 4.00.

287 The designated agent may add the sum of One Dollar (\$1.00) to
 288 each document processed for which a fee is charged to be retained

289 as his commission for services rendered. All other fees collected
290 shall be remitted to the State Tax Commission.

291 If more than one (1) transaction be involved in any
292 application on a single vehicle and if supported by all required
293 documents, the fee charged by the State Tax Commission and by the
294 designated agent for processing and issuing shall be considered as
295 only one (1) transaction.

296 **SECTION 5.** This act shall take effect and be in force from
297 and after July 1, 2005.