

By: Senator(s) Mettetal

To: Judiciary, Division B

SENATE BILL NO. 2355

1 AN ACT TO AMEND SECTION 41-29-181, MISSISSIPPI CODE OF 1972,
2 TO ELIMINATE THE DISPOSITION OF FORFEITED PROPERTY BY LIQUIDATION,
3 WITH SUBSEQUENT DIVISION OF PROCEEDS AMONG VARIOUS LAW ENFORCEMENT
4 AGENCIES, UNDER THE UNIFORM CONTROLLED SUBSTANCES ACT; AND FOR
5 RELATED PURPOSES.

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

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

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

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

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

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

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

19 * * *

20 (2) All real estate which is forfeited under the provisions
21 of this article shall be sold to the highest and best bidder at a
22 public auction for cash, such auction to be conducted by the chief
23 law enforcement officer of the initiating law enforcement agency,
24 or his designee, at such place, on such notice and in accordance
25 with the same procedure, as far as practicable, as is required in
26 the case of sales of land under execution at law. The proceeds of
27 such sale shall first be applied to the cost and expense in
28 administering and conducting such sale, then to the satisfaction

29 of all mortgages, deeds of trust, liens and encumbrances of record
30 on such property. * * *

31 (3) All other property that has been forfeited shall, except
32 as otherwise provided, be sold at a public auction for cash by the
33 chief law enforcement officer of the initiating law enforcement
34 agency, or his designee, to the highest and best bidder after
35 advertising the sale for at least once each week for three (3)
36 consecutive weeks, the last notice to appear not more than ten
37 (10) days nor less than five (5) days prior to such sale, in a
38 newspaper having a general circulation in the jurisdiction in
39 which said law enforcement agency is located. Such notices shall
40 contain a description of the property to be sold and a statement
41 of the time and place of sale. It shall not be necessary to the
42 validity of such sale either to have the property present at the
43 place of sale or to have the name of the owner thereof stated in
44 such notice. The proceeds of the sale shall be applied to the
45 satisfaction of * * * any bona fide lienholder, secured party, or
46 other party holding an interest in the property in the nature of a
47 security interest, to the extent of his interest.

48 * * *

49 (4) (a) Any county or municipal law enforcement agency may
50 maintain, repair, use and operate for official purposes all
51 property, other than real property, money or such property that is
52 described in subsection (1) of this section, that has been
53 forfeited to the agency if it is free from any interest of a bona
54 fide lienholder, secured party or other party who holds an
55 interest in the property in the nature of a security interest.
56 Such county or municipal law enforcement agency may purchase the
57 interest of a bona fide lienholder, secured party or other party
58 who holds an interest so that the property can be released for its
59 use. If the property is a motor vehicle susceptible of titling
60 under the Mississippi Motor Vehicle Title Law, the law enforcement
61 agency shall be deemed to be the purchaser, and the certificate of

62 title shall be issued to it as required by subsection (6) of this
63 section.

64 (b) (i) If a vehicle is forfeited to or transferred to
65 a sheriff's department, then the sheriff may transfer the vehicle
66 to the county for official or governmental use as the board of
67 supervisors may direct.

68 (ii) If a vehicle is forfeited to or transferred
69 to a police department, then the police chief may transfer the
70 vehicle to the municipality for official or governmental use as
71 the governing authority of the municipality may direct.

72 (c) If a motor vehicle forfeited to a county or
73 municipal law enforcement agency becomes obsolete or is no longer
74 needed for official or governmental purposes, it may be disposed
75 of in accordance with Section 19-7-5 or in the manner provided by
76 law for disposing of municipal property.

77 (5) The Mississippi Bureau of Narcotics may maintain,
78 repair, use and operate for official purposes all property, other
79 than real property, money or such property as is described in
80 subsection (1) of this section, that has been forfeited to the
81 bureau if it is free from any interest of a bona fide lienholder,
82 secured party, or other party who holds an interest in the
83 property in the nature of a security interest. In such case, the
84 bureau may purchase the interest of a bona fide lienholder,
85 secured party, or other party who holds an interest so that such
86 property can be released for use by the bureau.

87 The bureau may maintain, repair, use and operate such
88 property with money appropriated to the bureau for current
89 operations. If the property is a motor vehicle susceptible of
90 titling under the Mississippi Motor Vehicle Title Law, the bureau
91 is deemed to be the purchaser and the certificate of title shall
92 be issued to it as required by subsection (6) of this section.

93 (6) The State Tax Commission shall issue a certificate of
94 title to any person who purchases property under the provisions of

95 this section when a certificate of title is required under the
96 laws of this state.

97 **SECTION 2.** This act shall take effect and be in force from
98 and after July 1, 2005.