

By: Representative Moore

To: Transportation

HOUSE BILL NO. 1214

1 AN ACT TO AMEND SECTION 85-7-251, MISSISSIPPI CODE OF 1972,
 2 TO REVISE THE PROCEDURE THAT MUST BE FOLLOWED TO ALLOW A TOWING
 3 COMPANY TO RETAIN POSSESSION OF A MOTOR VEHICLE AND TO ENFORCE A
 4 LIEN UPON THE VEHICLE FOR THE PRICE OF TOWING AND STORAGE; TO
 5 REPEAL SECTIONS 63-23-1, 63-23-3, 63-23-5, 63-23-7, 63-23-9 AND
 6 63-23-11, MISSISSIPPI CODE OF 1972, WHICH PROVIDE A PROCEDURE FOR
 7 REMOVING ABANDONED MOTOR VEHICLES FROM THE RIGHT-OF-WAY OF PUBLIC
 8 STREETS, ROADS AND HIGHWAYS AND OTHER PUBLIC PROPERTY AND FOR
 9 SELLING AND DISPOSING OF SUCH MOTOR VEHICLES BY AUTOMOBILE
 10 DEALERS, WRECKER SERVICES, REPAIR SERVICE OWNERS OR PERSONS UPON
 11 WHOSE PROPERTY SUCH MOTOR VEHICLES HAVE BEEN LEFT OR LAWFULLY
 12 TOWED AT THE REQUEST OF A LAW ENFORCEMENT OFFICER; AND FOR RELATED
 13 PURPOSES.

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

15 **SECTION 1.** Section 85-7-251, Mississippi Code of 1972, is
 16 amended as follows:

17 85-7-251. (1) A towing company that tows a motor vehicle
 18 upon the request of the owner of the vehicle, upon the direction
 19 of a law enforcement officer or upon the request of a real
 20 property owner upon whose property the vehicle has been left
 21 without permission of the real property owner, upon complying with
 22 the provisions of subsection (2) of this section, shall have a
 23 lien upon the vehicle for the reasonable price of towing and
 24 storage of the vehicle and shall be entitled to retain possession
 25 of the motor vehicle until the price is paid. A towing company
 26 that fails to make a good faith effort to comply with the
 27 provisions of subsection (2) of this section shall not be entitled
 28 to retain possession of the vehicle or to enforce a lien upon the
 29 vehicle, but may commence an action in a court of competent
 30 jurisdiction against the owner of the vehicle to recover the
 31 reasonable price for towing and storage of the vehicle and such

32 other charges to which the towing company deems itself to be
33 lawfully entitled.

34 (2) The following procedure must be followed in order to
35 enforce the lien created under subsection (1) of this section:
36 Within twenty-four (24) hours after towing a vehicle, the towing
37 company shall report to the local law enforcement agency having
38 jurisdiction any vehicle that has been towed unless the vehicle
39 was towed at the request of the owner of the vehicle. If the
40 owner of a towed vehicle has not contacted the towing company
41 within five (5) business days of the initial tow, the towing
42 company shall obtain from the appropriate authority the names and
43 addresses of the owner and any lienholder. If the information
44 from the appropriate authority fails to disclose the owner or
45 lienholder, a good faith effort shall be made by the towing
46 company to determine ownership, including a check for tag
47 information, inspection sticker, or any papers in the vehicle that
48 may indicate ownership. Upon location of the owner and
49 lienholder, the towing company shall notify them at their last
50 known addresses by certified mail, return receipt requested,
51 postmarked no later than the tenth day following the initial tow,
52 informing them of the amount due for towing and storage and that
53 the vehicle will be sold unless the charges due and owing are
54 timely paid. * * * If the vehicle has not been redeemed within
55 ten (10) days after the mailing of the certified letter, or within
56 five (5) days after the mailing of the certified letter if the
57 value of the vehicle in its present condition is less than Two
58 Hundred Dollars (\$200.00), the towing company may commence sale of
59 the property at public auction after publishing for two (2)
60 consecutive weeks a notice of sale in the newspaper having
61 circulation in the county where the vehicle was initially towed.
62 The proceeds of the sale of such property in excess of the amount
63 needed to pay the towing, reasonable storage and necessary
64 expenses of the procedures required by this subsection shall be

65 held by the towing company for a period of six (6) months and, if
66 not claimed by the owner * * * within such time, shall become the
67 property of the county and be paid to the chancery clerk of the
68 county in which the sale was held to be deposited into the county
69 general fund, subject, however, to any rights of the recorded
70 lienholder.

71 * * *

72 **SECTION 2.** Sections 63-23-1, 63-23-3, 63-23-5, 63-23-7,
73 63-23-9 and 63-23-11, Mississippi Code of 1972, which provide a
74 procedure for removing abandoned motor vehicles from the
75 right-of-way of public streets, roads and highways and other
76 public property and for selling and disposing of such motor
77 vehicles by automobile dealers, wrecker services, repair service
78 owners or persons upon whose property such motor vehicles have
79 been left or lawfully towed at the request of a law enforcement
80 officer, are repealed.

81 **SECTION 3.** This act shall take effect and be in force from
82 and after July 1, 2006.