

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 1335

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

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

14 **SECTION 1.** The intent of this act is to provide the
15 procedures to be followed for removing abandoned motor vehicles
16 from the right-of-way and open lands of the state, to allow a
17 towing company to retain possession and assert a lien upon a towed
18 motor vehicle for the price of towing and storage and provide a
19 means of relieving automobile dealers, repairmen and others
20 dealing in motor vehicles from unnecessary storage of motor
21 vehicles which prevent the use of such floor space or property for
22 storage for hire or use in their business, and is therefore in the
23 public interest.

24 **SECTION 2.** For the purposes of this act, an "abandoned motor
25 vehicle" shall mean a motor vehicle as defined by the Mississippi
26 Motor Vehicle Title Law:

27 (a) Which has been left by the owner, or some person
28 acting for the owner, with an automobile dealer, repairman or
29 wrecker service for repair or for some other reason has not been
30 called for by such owner or other person within a period of thirty
31 (30) days after the time agreed upon or within thirty (30) days

32 after such vehicle is turned over to such dealer, repairman or
33 wrecker service if no time is agreed upon.

34 (b) Which is left unattended on a public street, road
35 or highway or other public property for a period of at least five
36 (5) days.

37 **SECTION 3.** (1) Any automobile dealer or repair service
38 owner who has an abandoned vehicle on his property may sell the
39 motor vehicle at public auction free and clear of all claims and
40 subject to the provisions provided for in this section.

41 (2) Any person or party that has an abandoned vehicle on his
42 property and is authorized to execute the sale or disposal of the
43 vehicle shall obtain from the appropriate authority, the names and
44 addresses of the owner and any lienholder. Prior to the sale of
45 any one (1) abandoned vehicle, the party in possession of the
46 vehicle shall inquire of the State Tax Commission as to the status
47 of the vehicle with regard to the Mississippi Motor Vehicle Title
48 Law. The inquiry shall provide the description of the vehicle,
49 including the vehicle identification number. If the information
50 from the appropriate authority fails to disclose the owner or
51 lienholders, a good-faith effort shall be made to determine
52 ownership, including a check for tag information, inspection
53 sticker, or any papers in the vehicle that may indicate ownership.

54 (3) The party in possession of the vehicle shall, within ten
55 (10) days of the vehicle being deemed abandoned, notify the last
56 known owner of record and all lienholder(s) of record at their
57 last known address, that the vehicle is in his possession by
58 certified mail, return receipt requested. The notice shall (a)
59 state the year, make, model and vehicle identification number of
60 the abandoned motor vehicle; (b) set forth the date, time and
61 place of sale, the name and address of the person or party who has
62 possession of the vehicle and the vehicle's location; and (c)
63 inform the owner and lienholder(s) of their right to reclaim the
64 vehicle within twenty (20) days after the date of the notice upon

65 timely payment of any towing and storage charges. If the owner
66 and lienholder of the vehicle received the notice and has not
67 redeemed the vehicle within twenty (20) days after the mailing of
68 the notice, the party in possession may commence sale of the motor
69 vehicle at public auction.

70 (4) If records of the State Tax Commission or any other
71 appropriate authority contain no address for the owner or
72 lienholder(s), or if the identity and addresses of the owner and
73 any lienholder(s) cannot be determined with reasonable certainty,
74 or the notice is returned unclaimed, or if the vehicle is not
75 titled in the State of Mississippi, notice by publication shall be
76 made once a week for two (2) consecutive weeks in a newspaper
77 having general circulation in the county where the vehicle was
78 abandoned. The published notice of sale shall contain
79 substantially the same information prescribed by subsection (3) of
80 this section for notice by mail.

81 **SECTION 4.** (1) A towing company that tows a motor vehicle
82 upon the request of the owner of the vehicle, upon the direction
83 of a law enforcement officer or upon the request of a real
84 property owner upon whose property the vehicle has been left
85 without permission of the real property owner for more than five
86 (5) days, shall, upon complying with the provisions of this
87 section, have a lien upon the vehicle for reasonable cost of
88 towing and storing the vehicle and shall be entitled to retain
89 possession of the motor vehicle until the costs are paid. A
90 towing company that fails to make a good-faith effort to comply
91 with the provisions of this section shall not be entitled to
92 retain possession of the vehicle or to enforce a lien upon the
93 vehicle, but may commence an action in a court of competent
94 jurisdiction against the owner of the vehicle to recover the
95 reasonable cost of towing and storing the vehicle and such other
96 charges to which the towing company deems itself to be lawfully
97 entitled.

98 (2) The following procedure must be followed in order to
99 sell at public auction a towed vehicle or enforce the lien created
100 under subsection (1) of this section:

101 (a) Within twenty-four (24) hours after towing a
102 vehicle, the towing company shall report to the local law
103 enforcement agency having jurisdiction of any vehicle that has
104 been towed unless the vehicle was towed at the request of the
105 owner of the vehicle.

106 (b) If the owner of a towed vehicle has not contacted
107 the towing company within five (5) business days after the vehicle
108 was towed, the towing company shall obtain from the appropriate
109 authority the names and addresses of the owner and any
110 lienholder(s).

111 (c) Prior to the sale of the vehicle the party in
112 possession of the vehicle shall inquire of the State Tax
113 Commission as to the status of the vehicle with regard to the
114 Mississippi Motor Vehicle Title Law. The inquiry shall provide
115 the description of the vehicle, including the vehicle
116 identification number.

117 (d) If the information from the appropriate authority
118 fails to disclose the owner or lienholder(s), a good-faith effort
119 shall be made by the towing company to determine ownership,
120 including a check for tag information, inspection sticker, or any
121 papers in the vehicle that may indicate ownership.

122 (3) Upon location of the last known registered owner and
123 lienholder(s), the towing company shall notify them at their last
124 known addresses by certified mail, return receipt requested,
125 postmarked not later than ten (10) days after the vehicle was
126 towed, informing them of the amount due for towing and storage and
127 that the vehicle will be sold unless the charges due and owing are
128 timely paid. The notice shall give such owner and lienholder(s)
129 the date, time and place of sale, the name of the person or party
130 who has custody of the vehicle and inform the owner and

131 lienholder(s) of their right to reclaim the vehicle within twenty
132 (20) days after the date of the notice upon timely payment of any
133 towing and storage charges. If the vehicle has not been redeemed
134 within twenty (20) days after the mailing of the notice, the
135 towing company may commence sale of the property at public auction
136 after publishing once a week for two (2) consecutive weeks notice
137 of the sale in a newspaper having general circulation in the
138 county where the vehicle was towed.

139 (4) If the records of the State Tax Commission or any other
140 appropriate authority contain no address for the owner or
141 lienholder(s), or if the identity and addresses of the owner and
142 any lienholder(s) cannot be determined with reasonable certainty,
143 or the notice is returned unclaimed, or if the vehicle is not
144 titled in the State of Mississippi, notice by publication shall be
145 made once a week for two (2) consecutive weeks in a newspaper
146 having general circulation in the county where the vehicle was
147 towed. The published notice of sale shall contain substantially
148 the same information prescribed by subsection (3) of this section
149 for notice by mail.

150 **SECTION 5.** (1) After the sale of any vehicle as provided
151 for in this act is made, the person or officer making the sale of
152 such property shall promptly upon completion of the sale, deliver
153 to the chancery clerk a list or itemization of the property sold,
154 the amount paid for each item, the person to whom each item was
155 sold and all money received from the sale and the gross charges
156 levied by the person making the sale against the property. Any
157 sale made by any person, officer, corporation or association shall
158 have attached to the report of sale a sworn statement certifying
159 as to the date the personal property or items sold first came into
160 his possession and the date the personal property or item was
161 sold.

162 (2) After the sale of any vehicle as provided for in this
163 act, the person or officer designated and making the sale of such

164 property shall advise the State Tax Commission of the sale and the
165 commission shall advise the party of proper titling procedures.

166 (3) The proceeds of the sale of the property in excess of
167 the amount needed to pay the towing, reasonable storage and
168 necessary expenses of the procedures required by this act shall be
169 held by the person selling the property for a period of six (6)
170 months and, if not claimed by the owner within such time, shall
171 become the property of the county and be paid to the chancery
172 clerk of the county in which the sale was held to be deposited
173 into the county general fund, subject, however, to any rights of
174 the recorded lienholder.

175 (4) Every automobile dealership, repair service owner or
176 towing company utilizing this act shall maintain accurate records
177 for a period of three (3) years. The records shall identify the
178 vehicles it has towed and/or stored and all procedures that it has
179 taken to comply with the provisions of this act.

180 **SECTION 6.** Any person proving ownership or any lienholder
181 may claim the motor vehicle at any time prior to sale by paying
182 towing, repair, storage and other necessary expenses incurred.

183 **SECTION 7.** Sections 63-23-1, 63-23-3, 63-23-5, 63-23-7,
184 63-23-9, 63-23-11 and 85-7-251, Mississippi Code of 1972, which
185 provide procedures for the sale of abandoned motor vehicles, are
186 repealed.

187 **SECTION 8.** This act shall take effect and be in force from
188 and after July 1, 2007.