

By: Representative Moak (By Request)

To: Wildlife, Fisheries and  
Parks; Judiciary A

HOUSE BILL NO. 187

1 AN ACT TO AMEND SECTION 49-7-251, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THE JUSTICE COURT WITH JURISDICTION OVER FORFEITURE OF  
3 PROPERTY FOR VIOLATIONS OF GAME AND FISH LAWS; AND FOR RELATED  
4 PURPOSES.

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

6 **SECTION 1.** Section 49-7-251, Mississippi Code of 1972, is  
7 amended as follows:

8 49-7-251. (1) Except as otherwise provided in Section  
9 49-7-257, when any property is seized pursuant to Section  
10 49-7-103, 49-15-21(2) or 59-21-33, proceedings under this section  
11 shall be instituted promptly. Provided, however, that the seizing  
12 law enforcement agency may, in the sound exercise of discretion,  
13 decide not to bring a forfeiture action if the interests of bona  
14 fide lienholders or secured creditors equal or exceed the value of  
15 the seized property, or if other factors would produce a negative  
16 economic result. Provided further, that no property shall be  
17 subject to forfeiture which has been stolen from its owner if the  
18 owner can be identified and prosecution for the theft has been  
19 initiated.

20 (2) A petition for forfeiture shall be filed promptly in the  
21 name of the State of Mississippi, the county or the municipality  
22 and may be filed in the county in which the seizure is made, the  
23 county in which the criminal prosecution is brought or the county  
24 in which the owner of the seized property is found. Forfeiture  
25 proceedings may be brought in the circuit court, the county court  
26 if a county court exists in the county and the value of the seized  
27 property is within the jurisdictional limits of the county court  
28 as set forth in Section 9-9-21, or in the justice court if the



29 value of the seized property is within the jurisdictional limits  
30 of the justice court as set forth in Section 9-11-9. A copy of  
31 such petition shall be served upon the following persons by  
32 service of process in the same manner as in civil cases:

33 (a) The owner of the property, if address is known;

34 (b) Any secured party who has registered his lien or  
35 filed a financing statement as provided by law, if the identity of  
36 such secured party can be ascertained by the Department of  
37 Wildlife, Fisheries and Parks or the local law enforcement agency  
38 by making a good faith effort to ascertain the identity of such  
39 secured party as described in subsections (3), (4), (5), (6) and  
40 (7) of this section;

41 (c) Any other bona fide lienholder or secured party or  
42 other person holding an interest in the property in the nature of  
43 a security interest of whom the Department of Wildlife, Fisheries  
44 and Parks or the local law enforcement agency has actual  
45 knowledge; and

46 (d) Any person in possession of property subject to  
47 forfeiture at the time that it was seized.

48 (3) If the property is a motor vehicle susceptible of  
49 titling under the Mississippi Motor Vehicle Title Law and if there  
50 is any reasonable cause to believe that the vehicle has been  
51 titled, the Department of Wildlife, Fisheries and Parks or the  
52 local law enforcement agency shall make inquiry of the Department  
53 of Revenue as to what the records of the Department of Revenue  
54 show as to who is the record owner of the vehicle and who, if  
55 anyone, holds any lien or security interest which affects the  
56 vehicle.

57 (4) If the property is a motor vehicle and is not titled in  
58 the State of Mississippi, then the Department of Wildlife,  
59 Fisheries and Parks or the local law enforcement agency shall  
60 attempt to ascertain the name and address of the person in whose  
61 name the vehicle is licensed, and if the vehicle is licensed in a



62 state which has in effect a certificate of title law, the  
63 Department of Wildlife, Fisheries and Parks or the local law  
64 enforcement agency shall make inquiry of the appropriate agency of  
65 that state as to what the records of the agency show as to who is  
66 the record owner of the vehicle and who, if anyone, holds any  
67 lien, security interest or other instrument in the nature of a  
68 security device which affects the vehicle.

69 (5) If the property is of a nature that a financing  
70 statement is required by the laws of this state to be filed to  
71 perfect a security interest affecting the property and if there is  
72 any reasonable cause to believe that a financing statement  
73 covering the security interest has been filed under the laws of  
74 this state, the Department of Wildlife, Fisheries and Parks or the  
75 local law enforcement agency shall make inquiry of the appropriate  
76 office designated in Section 75-9-501, as to what the records show  
77 as to who is the record owner of the property and who, if anyone,  
78 has filed a financing statement affecting the property.

79 (6) If the property is an aircraft or part thereof and if  
80 there is any reasonable cause to believe that an instrument in the  
81 nature of a security device affects the property, then the  
82 Department of Wildlife, Fisheries and Parks or the local law  
83 enforcement agency shall make inquiry of \* \* \* the Mississippi  
84 Transportation Commission as to what the records of the Federal  
85 Aviation Administration show as to who is the record owner of the  
86 property and who, if anyone, holds an instrument in the nature of  
87 a security device which affects the property.

88 (7) In the case of all other personal property subject to  
89 forfeiture, if there is any reasonable cause to believe that an  
90 instrument in the nature of a security device affects the  
91 property, then the Department of Wildlife, Fisheries and Parks or  
92 the local law enforcement agency shall make a good faith inquiry  
93 to identify the holder of any such instrument.



94 (8) In the event the answer to an inquiry states that the  
95 record owner of the property is any person other than the person  
96 who was in possession of it when it was seized, or states that any  
97 person holds any lien, encumbrance, security interest, other  
98 interest in the nature of a security interest, mortgage or deed of  
99 trust which affects the property, the Department of Wildlife,  
100 Fisheries and Parks or the local law enforcement agency shall  
101 cause any record owner and also any lienholder, secured party,  
102 other person who holds an interest in the property in the nature  
103 of a security interest which affects the property to be named in  
104 the petition of forfeiture and to be served with process in the  
105 same manner as in civil cases.

106 (9) If the owner of the property cannot be found and served  
107 with a copy of the petition of forfeiture, or if no person was in  
108 possession of the property subject to forfeiture at the time that  
109 it was seized and the owner of the property is unknown, the  
110 Department of Wildlife, Fisheries and Parks or the local law  
111 enforcement agency shall file with the clerk of the court in which  
112 the proceeding is pending an affidavit to such effect, whereupon  
113 the clerk of the court shall publish notice of the hearing  
114 addressed to "the Unknown Owner of \_\_\_\_\_," filling in  
115 the blank space with a reasonably detailed description of the  
116 property subject to forfeiture. Service by publication shall  
117 contain the other requisites prescribed in Section 11-33-41, and  
118 shall be served as provided in Section 11-33-37 for publication of  
119 notice for attachments at law.

120 (10) No proceedings instituted pursuant to the provisions of  
121 this section shall proceed to hearing unless the judge conducting  
122 the hearing is satisfied that this section has been complied with.  
123 Any answer received from an inquiry required by subsections (3)  
124 through (7) of this section shall be introduced into evidence at  
125 the hearing.



126           **SECTION 2.** This act shall take effect and be in force from  
127 and after July 1, 2012.

