

By: Representatives Smith, Dixon

To: Ways and Means

HOUSE BILL NO. 460

1 AN ACT TO AMEND SECTION 27-77-9, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DATE UPON WHICH THE TIME PERIOD BEGINS TO RUN TO FILE A
3 WRITTEN REQUEST WITH THE BOARD OF REVIEW OF THE DEPARTMENT OF
4 REVENUE FOR A HEARING ON THE SUSPENSION, SURRENDER, SEIZURE OR
5 REVOCATION OF A PERMIT, TAG OR TITLE ISSUED OR APPROVED BY THE
6 DEPARTMENT OF REVENUE; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 27-77-9, Mississippi Code of 1972, is
9 amended as follows:

10 27-77-9. (1) If the agency determines that there is a basis
11 for suspension, surrender, seizure or revocation of a permit, tag
12 or title issued or approved by the agency, the agency shall give
13 the permittee, tag holder, title interest holder in the permit,
14 tag or title, written notice of its intent to suspend, revoke or
15 to order the surrender and/or seizure of the permit, tag or title.
16 The notice of intent shall be mailed or hand delivered to the
17 permittee, tag holder or title interest holder involved, shall set
18 forth the facts and conduct that provide the basis for the
19 intended action and shall advise the permittee, tag holder or
20 title interest holder involved that he has thirty (30) days from



21 the date * * * the agency mailed or delivered the notice of the
22 action to file with the board of review a written request for a
23 hearing on the intended action. If the permittee, tag holder or
24 title interest holder involved fails to file a written request
25 with the board of review for a hearing on the intended action
26 within the thirty-day period, the intended action shall
27 automatically go into effect on the thirty-first day after the
28 date of the notice of intent without any further action by the
29 agency. The agency retains jurisdiction to reinstate, reduce or
30 remove a suspension and/or return the permit, tag or title
31 suspended, revoked, surrendered or seized under this provision.

32 (2) Upon receipt of a timely filed written request for a
33 hearing on the intended suspension, surrender, seizure or
34 revocation of the permit, tag or title in issue, the person filing
35 the request shall be advised of the date, time and location of a
36 show cause hearing that will be held a minimum of thirty (30) days
37 from the date of the notice. In the case of a request for hearing
38 involving an intended action regarding a title, the notice of
39 hearing shall also be mailed to any other title interest holders
40 in the motor vehicle or manufactured housing in issue. At the
41 hearing, the person requesting the hearing shall show cause why
42 the proposed action should not be taken. The show cause hearing
43 shall be informal and the rules of evidence shall be relaxed. The
44 hearing shall be conducted by the board of review or by a single
45 hearing officer selected by the chairman of the board of review



46 from a pool of qualified individuals designated by the
47 commissioner to serve as administrative hearing officers. The
48 person that requested the hearing or his designated representative
49 shall attend the hearing unless a request is made to, and granted
50 by, the board of review or the designated hearing officer to allow
51 the person to submit his position in writing or by electronic
52 transmission in lieu of attending the hearing. Failure of the
53 person requesting the hearing or his designated representative to
54 attend a hearing or submit his position in writing or by
55 electronic transmission in lieu of attendance by the date
56 specified by the board of review or designated hearing officer or
57 by the hearing date, if no date is specified, shall constitute an
58 involuntary withdrawal of the appeal. As soon as practical after
59 the show cause hearing, the hearing officer or the members of the
60 board of review that conducted the hearing shall make a
61 determination as to whether the intended action or any other
62 action should be taken in regard to the permit, tag or title in
63 issue. The hearing officer or board of review shall enter an
64 order based on this determination and a copy of this order shall
65 be mailed to the permittee, tag holder or title interest holder
66 involved notifying same of the decision and the action taken.

67 (3) The order of the hearing officer or the board of review
68 in regard to a show cause hearing shall be final unless, within
69 thirty (30) days from the date * * * the hearing officer or board
70 of review mailed the order, the permittee, tag holder or title



71 interest holder appeals the order to the Board of Tax Appeals.
72 The appeal shall be in writing and request a hearing and reversal
73 or modification of the order of the hearing officer or board of
74 review, specify in detail the relief requested, contain any other
75 information that might be required by regulation and be filed with
76 the executive director. The person filing the appeal with the
77 executive director shall also file a copy of his written appeal
78 with the board of review. Even after an appeal is filed with the
79 executive director, the board of review or hearing officer who
80 entered the order appealed retains the authority to amend and/or
81 correct this order at any time prior to a decision by the Board of
82 Tax Appeals on the appeal. Failure to timely file a written
83 appeal with the executive director within the thirty-day period
84 shall make the order of the hearing officer or the board of review
85 being appealed final and not subject to further review by the
86 Board of Tax Appeals or a court other than as to the issue of
87 whether a written appeal from the order of the hearing officer or
88 board of review was timely filed with the executive director.

89 (4) Upon receipt of a written appeal from an order of a
90 hearing officer or the board of review regarding a show cause
91 hearing on a permit, tag or title, the executive director shall
92 schedule a hearing before the Board of Tax Appeals on this appeal.
93 A notice of the hearing shall be mailed to the person who filed
94 the appeal and the agency to advise them of the date, time and
95 location of hearing. In the case of an appeal from a show cause



96 hearing on a title, the notice of hearing shall also be mailed to
97 any other title interest holders in the motor vehicle or
98 manufactured housing in issue. The person who filed the appeal or
99 his designated representative shall attend the hearing. Failure
100 of this person or his designated representative to attend a
101 hearing shall constitute an involuntary withdrawal of the appeal.

102 (5) At any hearing before the Board of Tax Appeals on an
103 appeal of an order regarding a show cause hearing on a permit, tag
104 or title, two (2) members of the Board of Tax Appeals shall
105 constitute a quorum. At the hearing the Board of Tax Appeals
106 shall try the issues presented according to law and the facts and
107 pursuant to any guidelines established by regulation. The rules
108 of evidence shall be relaxed at the hearing and the hearing shall
109 be taken down by a court reporter. After reaching a decision on
110 the issues presented, the Board of Tax Appeals shall enter an
111 order setting forth its findings and decision on the appeal. A
112 copy of the order of the Board of Tax Appeals shall be mailed to
113 the person who filed the appeal and the agency to notify them of
114 the findings and decision of the Board of Tax Appeals. In the
115 case of an appeal involving a title, a copy of the order of the
116 Board of Tax Appeals shall also be mailed to any other title
117 interest holder in the motor vehicle or manufactured housing in
118 issue.

119 (6) At any time after the filing of an appeal with the board
120 of review under this section, an appeal may be withdrawn. A



121 withdrawal of an appeal can be made voluntarily by the person
122 appealing or may occur involuntarily as the result of his failure
123 to appear at a scheduled hearing, or by any other act or failure
124 that the hearing officer or the board of review determines
125 represents a failure on the part of that person to prosecute his
126 appeal. A voluntary withdrawal shall be in writing or by
127 electronic transmission and sent from the person appealing or his
128 designated representative to the chairman of the board of review
129 or to the hearing officer designated to hear the matter. If the
130 withdrawal of appeal is involuntary, the board of review or the
131 hearing officer designated to hear the matter shall note on its
132 minutes or by order the involuntary withdrawal of the appeal and
133 the basis for the withdrawal. Once an appeal to the board of
134 review under subsection (1) of this section is withdrawn, whether
135 voluntary or involuntary, the intended suspension, surrender,
136 seizure or revocation from which the appeal was taken shall become
137 final and not subject to further review by the Board of Tax
138 Appeals or a court. The agency shall then proceed in accordance
139 with law based on such final action.

140 (7) At any time after the filing of an appeal with the Board
141 of Tax Appeals under this section, the appeal may be withdrawn. A
142 withdrawal of an appeal can be made voluntarily by the person
143 appealing or may occur involuntarily as the result of the failure
144 to appear at a scheduled hearing, or by any other act or failure
145 that the Board of Tax Appeals determines to represent a failure on



146 the part of that person to prosecute his appeal. A voluntary
147 withdrawal shall be in writing or by electronic transmission and
148 sent from the person appealing or his designated representative to
149 the executive director. If the withdrawal of the appeal is
150 involuntary, the Board of Tax Appeals shall note on its minutes
151 the involuntary withdrawal of the appeal and the basis for the
152 withdrawal. Once an appeal is withdrawn under this section,
153 whether voluntary or involuntary, the order from the show cause
154 hearing from which the appeal was taken shall become final and not
155 subject to further review by the Board of Tax Appeals or a court.
156 The agency shall then proceed in accordance with law based on the
157 final order.

158 (8) Any appeal or other filing with the board of review or
159 Board of Tax Appeals pursuant to this section shall be considered
160 timely if it is hand delivered during the regular office hours of
161 the recipient by the due date of such filing, or if it is mailed,
162 postmarked or shipped by such due date. Any appeal or other
163 filing with the board of review or Board of Tax Appeals pursuant
164 to this section shall also be considered timely if electronically
165 transmitted via electronic mail, electronic filing or facsimile by
166 midnight of the due date for such filing. The timeliness of such
167 electronic filing shall be determined in all instances based on
168 the local time zone of the recipient. If the due date for any
169 appeal or other filing with the board of review or Board of Tax
170 Appeals should fall on a Saturday, Sunday or official state



171 holiday, or other day on which the Department of Revenue or Board
172 of Tax Appeals is closed, the due date for the filing shall be the
173 next business day in which the Department of Revenue or Board of
174 Tax Appeals is open.

175 **SECTION 2.** Nothing in this act shall affect or defeat any
176 notice of intent of suspension, surrender, seizure or revocation
177 of a permit, tag or title or the administrative appeal or judicial
178 appeal thereof where the initial date of the notice of intent of
179 suspension, surrender, seizure or revocation of a permit, tag or
180 title is before the date on which this act becomes effective. The
181 provisions of the laws relating to the administrative appeal or
182 judicial review of such actions which were in effect prior to the
183 effective date of this act are expressly continued in full force,
184 effect and operation for the purpose of providing an
185 administrative appeal and/or judicial review of any notice of
186 intent of suspension, surrender, seizure or revocation of a
187 permit, tag or title where the initial date of said notice is
188 before the date on which this act becomes effective.

189 **SECTION 3.** This act shall take effect and be in force from
190 and after July 1, 2016.

