

By: Representative Clark

To: Wildlife, Fisheries and  
Parks

HOUSE BILL NO. 161

1 AN ACT TO REQUIRE ALL-TERRAIN VEHICLES TO OBTAIN A  
2 CERTIFICATE OF NUMBER; TO AUTHORIZE THE DEPARTMENT OF WILDLIFE,  
3 FISHERIES AND PARKS TO ISSUE THE CERTIFICATES; TO PROVIDE THAT THE  
4 CERTIFICATE OF NUMBER SHALL BE PLACED ON THE ALL-TERRAIN VEHICLES;  
5 TO PROVIDE A PENALTY FOR VIOLATIONS; TO AMEND SECTIONS 49-5-21,  
6 49-7-251, 49-7-253 AND 49-7-257, MISSISSIPPI CODE OF 1972, TO  
7 CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Sections 1 through 13 of this act shall be known,  
10 and may be cited as the "Mississippi All-Terrain/Off-Road Vehicle  
11 Numbering Act."

12 **SECTION 2.** As used in Sections 1 through 13 of this act,  
13 unless the context clearly indicates otherwise:

14 (a) "ATV/ORV" means any all-terrain or off-road vehicle  
15 of a kind and type used for hunting, off-road recreation, or other  
16 vehicular travel over unimproved lands or trails as well as  
17 semi-improved roads. The term includes, but is not limited to,  
18 four-wheelers designed to be operated by one (1) rider astride the  
19 vehicle using handlebar steering and any additional conventional  
20 conveyances featuring a standard steering column and seating for



21 one or more persons sitting in tandem, including, but not limited  
22 to, golf carts modified for off-road use. The commission shall  
23 have the authority to expand the scope of this definition by rule  
24 or regulation to include any additional conveyance that it deems  
25 to be an ATV/ORV and properly subject to the provisions of  
26 Sections 1 through 13 of this act.

27 (b) "Certificate of number" means the number issued by  
28 the Department of Wildlife, Fisheries and Parks, after proper  
29 application, certifying the ownership of the ATV/ORV to be true  
30 and proper.

31 (c) "Commission" means the Mississippi Commission on  
32 Wildlife, Fisheries and Parks.

33 (d) "Department" means the Mississippi Department of  
34 Wildlife, Fisheries and Parks.

35 (e) "Operate" means to drive, steer or otherwise use an  
36 ATV/ORV.

37 (f) "Operator" means the person who drives, steers or  
38 who has charge of the operation or use of an ATV/ORV.

39 (g) "Owner" means the person who claims lawful  
40 possession of an ATV/ORV by virtue of legal title or equitable  
41 interest therein which entitles him to such possession.

42 (h) "Person" means an individual, partnership, firm,  
43 corporation, association, or other entity.



44 (i) "Numbered ATV/ORV" means any ATV/ORV that has been  
45 issued a valid certificate of number by the Department of  
46 Wildlife, Fisheries and Parks.

47 (j) "Un-numbered ATV/ORV" means any ATV/ORV which has  
48 not been issued a valid certificate of number by the Mississippi  
49 Department of Wildlife, Fisheries and Parks, or in the case of an  
50 ATV/ORV coming from outside of the State of Mississippi, has not  
51 been issued a similar certification of ownership by the  
52 jurisdiction from which the ATV/ORV came.

53 **SECTION 3.** (1) The Legislature finds that, as a matter of  
54 public policy, it is necessary that a system of numbering and  
55 certifying the ownership of certain all-terrain and off-road  
56 vehicles be developed and implemented. To that end, the  
57 Mississippi Commission on Wildlife, Fisheries and Parks shall  
58 develop and implement a system of certified numbering of  
59 all-terrain and off-road vehicles.

60 (2) The commission is authorized to promulgate rules and  
61 regulations for the numbering of all-terrain and off-road  
62 vehicles.

63 (3) The commission is authorized to set and collect fees for  
64 issuing certificates of number for all-terrain and off-road  
65 vehicles, not to exceed Ten Dollars (\$10.00) per certificate.

66 **SECTION 4.** (1) Every ATV/ORV owned and operated within the  
67 boundaries of the State of Mississippi shall be numbered in  
68 accordance with Sections 1 through 13 of this act, except:



69 (a) A foreign ATV/ORV temporarily within the State of  
70 Mississippi, as long as the ATV/ORV has supporting ownership  
71 documents, or is titled to the person in possession of the ATV/ORV  
72 if the state of origin of that ATV/ORV requires titling;

73 (b) A public ATV/ORV of the United States of America;

74 (c) A state, county or municipal ATV/ORV used solely  
75 for official business and displaying proper visual identification  
76 and/or inventory control markings on the ATV/ORV;

77 (d) An undocumented ATV/ORV used exclusively for racing  
78 as long as accompanied with supporting documentation of ownership  
79 or title;

80 (e) An undocumented ATV/ORV operating under a valid  
81 temporary certificate of number; and

82 (f) An ATV/ORV that has a number in full force and  
83 effect awarded according to the laws of the jurisdiction from  
84 which the ATV/ORV originated under an approved numbering system of  
85 that state, provided that the ATV/ORV shall not have been within  
86 this state for more than sixty (60) days.

87 (2) Nothing in this section shall prohibit the numbering of  
88 any undocumented ATV/ORV upon the request of the owner.

89 **SECTION 5.** The owner of any ATV/ORV required to be numbered  
90 under Sections 1 through 13 of this act shall apply to the  
91 commission for a certificate of number within ten (10) days from  
92 the date of acquisition of the ATV/ORV, on forms provided by the



93 commission or the department. The application for a number shall  
94 include, but is not limited to, the following:

95 (a) Name and address of the owner;

96 (b) Date of birth of the owner;

97 (c) Social security number or driver's license number  
98 of the owner;

99 (d) Present citizenship of the owner (county, state,  
100 country);

101 (e) County in which the ATV/ORV will principally be  
102 used;

103 (f) Manufacturer of the ATV/ORV and year built, if  
104 known;

105 (g) Manufacturer's serial number or other  
106 identification number associated with the ATV/ORV;

107 (h) Type of fuel or propulsion (gas, diesel or  
108 electric) used by the ATV/ORV;

109 (i) Statement as to the primary use for which the  
110 ATV/ORV is intended (pleasure/outdoor recreation, hunting, farm  
111 work, commercial or other);

112 (j) Certification of ownership of the ATV/ORV by the  
113 applicant;

114 (k) Signature of the owner;

115 (l) Receipt, sales or otherwise, that shows whether or  
116 not a sales or use tax was paid at the time of the purchase of the  
117 ATV/ORV. If the ATV/ORV was purchased outside the State of



118 Mississippi, and the tax for the privilege of using or consuming  
119 tangible personal property imposed by Section 27-67-5 was not paid  
120 at the time the ATV/ORV was acquired, then the owner shall be  
121 required to pay the tax as provided by the Mississippi Use Tax Law  
122 before a certificate of number can be issued; and

123 (m) Name of any lienholders.

124 **SECTION 6.** (1) The certificate of number shall include, at  
125 a minimum, the following information:

126 (a) Name and address of the owner;

127 (b) Date of birth of the owner;

128 (c) Present citizenship of the owner (county, state,  
129 country);

130 (d) County in which the ATV/ORV will principally be  
131 used;

132 (e) Manufacturer of the ATV/ORV, model number or name,  
133 and year built;

134 (f) Manufacturer's serial number or other  
135 identification number associated with the ATV/ORV;

136 (g) Type of fuel or propulsion (gas, diesel or  
137 electric) used by the ATV/ORV;

138 (h) Statement as to the primary use for which the  
139 ATV/ORV is intended (pleasure/outdoor recreation, hunting, farm  
140 work, commercial or other);

141 (i) Certification of ownership of the ATV/ORV by the  
142 applicant;



143 (j) Name of lienholders, if applicable;  
144 (k) Signature of the owner;  
145 (l) Number awarded to ATV/ORV;  
146 (m) Expiration date of certificate; and  
147 (n) Notice to the owner that he shall report, within  
148 fifteen (15) days, any changes of ownership or address, and  
149 destruction or abandonment of ATV/ORV.

150 (2) The commission shall ensure that the forms required by  
151 this section are available at various district offices, ATV/ORV  
152 companies or dealerships, with law enforcement officers, and at  
153 any other places for the purpose of making the forms accessible to  
154 ATV/ORV owners or purchasers. The commission shall award  
155 certificates of number and shall keep current a consolidated  
156 record of all certificates of numbers awarded, and renewals of  
157 numbers.

158 (3) Upon request, information on ownership and identity of a  
159 numbered ATV/ORV shall be made available to federal, state and  
160 local officials for any enforcement or assistance programs. The  
161 records pertaining to the numbering of any undocumented ATV/ORV  
162 under Sections 1 through 13 of this act are considered to be  
163 public records. Information not exempt from release under other  
164 authority, based on the records, may be released upon oral or  
165 written inquiry, subject only to reasonable restrictions necessary  
166 to carry on the business of the office. The commission may permit  
167 excerpts to be made or the copying or reproduction thereof by a



168 private individual or concern. The fees and charges for copying,  
169 certifying or searching of records for information shall be  
170 assessed in accordance with usual fees allowed for those services.

171 **SECTION 7.** (1) An application for renewal of a certificate  
172 of number shall be made by the owner on an application which must  
173 be received by the commission within ninety (90) days before the  
174 expiration date on the certificate of number. The same number  
175 will be issued upon renewal. If a certificate of number is lost  
176 or destroyed, the owner, within fifteen (15) days, shall notify  
177 the commission's office. The notification shall be in writing,  
178 describe the circumstances of the loss or destruction and be  
179 accompanied by the fee prescribed in Section 3 of this act. The  
180 certificate of number issued as a result of the report will  
181 replace the certificate that was lost or destroyed.

182 (2) The commission shall mail notice of expiration of  
183 numbers, together with an application for renewal of number, to  
184 each registered ATV/ORV owner not less than sixty (60) days before  
185 the expiration date. The commission shall verify annually an  
186 updated list of all numbers in effect and those numbers not  
187 renewed.

188 **SECTION 8.** The certified statement of ownership on the  
189 application for the award of a number shall constitute prima facie  
190 evidence of proof of ownership. Liens of all kinds, including  
191 reservations or transfers of title to secure debts or claims, will  
192 be disregarded in determining ownership under Sections 1 through





193 13 of this act. A lienholder who acquires possession and title by  
194 virtue of default in the terms of the lien instrument, or any  
195 other person who acquires ownership through any such action of a  
196 lienholder, may apply for a number and shall attach to the  
197 application a signed statement explaining the facts in detail.

198 In addition to any other provision of this act, a bill of  
199 sale or receipt from any entity in the business of selling the  
200 ATV/ORV, that clearly shows the person claiming ownership to be  
201 the purchaser of that ATV/ORV, shall be further evidence of  
202 ownership of the ATV/ORV.

203 **SECTION 9.** (1) The commission is authorized to research and  
204 develop a method of affixing a number to an ATV/ORV. Any method  
205 adopted must provide for secure attachment that does not interfere  
206 with the operation of the ATV/ORV, but remains plainly visible to  
207 any person and can be readily identified and read through casual  
208 observation and without removing any part of the ATV/ORV. The  
209 number awarded shall be affixed to the ATV/ORV for which it was  
210 issued. The numbers shall read from left to right and shall be in  
211 block characters of good proportion. The numbers shall be of a  
212 color or material which will contrast with the color of the  
213 background and must be maintained as to be clearly visible and  
214 legible. No other number shall be carried on the ATV/ORV.

215 (2) Alteration, mutilation, removal, defacement or  
216 destruction of any number awarded and affixed to any ATV/ORV under  
217 Sections 1 through 13 of this act shall be a Class I violation as



218 prescribed in Section 49-7-141. Any person convicted of altering,  
219 mutilating, removing, defacing or destroying a number awarded and  
220 affixed according to Sections 1 through 13 of this act shall be  
221 punished according to the provisions of Section 49-7-141.

222 **SECTION 10.** Certificates of number may be cancelled or  
223 voided under the following circumstances:

- 224 (a) Surrender of certificate for cancellation;  
225 (b) Issuance of a new number for the same ATV/ORV;  
226 (c) False or fraudulent certification in an application  
227 for a number; or  
228 (d) Willful mutilation, defacing, or altering of a  
229 number.

230 **SECTION 11.** (1) The fees authorized under Section 3 of this  
231 act shall be charged when the owner of an ATV/ORV makes  
232 application for a certificate of number. The ATV/ORV owner shall  
233 request that the Department of Wildlife, Fisheries and Parks  
234 perform an inspection of an ATV/ORV for the purpose of awarding or  
235 replacing a number.

236 (2) All fees for numbers and renewal of numbers shall be  
237 payable to the Mississippi Department of Wildlife, Fisheries and  
238 Parks and shall be deposited in the Fisheries and Wildlife Fund  
239 created in Section 49-5-21.

240 **SECTION 12.** No person shall remove, change or in any manner  
241 mutilate or deface any number awarded an ATV/ORV, or any motor  
242 number or other stamped, cast, or forged numbers or letters or



243 other marks upon any ATV/ORV, or assist in so doing, or, having  
244 knowledge of such change, fail to report the change to the  
245 Department of Wildlife, Fisheries and Parks. Any person or owner,  
246 being in possession of an ATV/ORV, shall examine the ATV/ORV and  
247 report such changes to the Department of Wildlife, Fisheries and  
248 Parks.

249 No person shall buy, sell or possess an ATV/ORV on which any  
250 awarded number or identification number has been removed, changed,  
251 mutilated or defaced. It shall be the duty of any person buying,  
252 or any lienholder financing, an ATV/ORV, to inspect the ATV/ORV  
253 prior to its purchase or creation of a lien thereon, to ensure  
254 that it is in compliance with this section.

255 **SECTION 13.** Any ATV/ORV that has numbers or identification  
256 numbers or marks which have been removed, changed, mutilated or  
257 defaced contrary to Sections 1 through 13 of this act is subject  
258 to forfeiture, and may be seized by any conservation officer or  
259 enforcement officer of the Department of Wildlife, Fisheries and  
260 Parks, or other officer of the law including any sheriff or deputy  
261 sheriff. Upon the seizure of the property, forfeiture proceedings  
262 shall be instituted according to Sections 49-7-251 through  
263 49-7-257; however, any property which has previously been  
264 registered, numbered or titled within the State of Mississippi is  
265 not subject to forfeiture if the application for a certificate of  
266 number, registration or title contained no false or fraudulent



267 information, or if the property seized has a value less than One  
268 Thousand Dollars (\$1,000.00).

269 **SECTION 14.** Section 49-5-21, Mississippi Code of 1972, is  
270 amended as follows:

271 49-5-21. (1) The department shall transfer all funds under  
272 its control into a special fund in the State Treasury to be  
273 segregated and known as the "Fisheries and Wildlife Fund," which  
274 fund can only be expended as authorized by the Legislature for the  
275 purposes for which the department was created. All funds derived  
276 from the sale of licenses, fees, fines and other revenues received  
277 by the department as provided by law, shall be deposited in the  
278 Fisheries and Wildlife Fund. The interest obtained thereon from  
279 any investment or deposit made pursuant to Section 27-105-33,  
280 Mississippi Code of 1972, shall be credited by the State Treasurer  
281 to the Fisheries and Wildlife Fund and shall not be paid into the  
282 General Fund of Mississippi.

283 (2) (a) (i) The department may expend such sums as are  
284 authorized by the Legislature from the Fisheries and Wildlife Fund  
285 for paying salaries of its employees, operating and maintaining  
286 equipment and for any other purpose the department is authorized  
287 to expend funds by law, which amount shall be available for  
288 expenditure.

289 (ii) The money herein authorized shall be paid by  
290 the State Treasurer out of the Fisheries and Wildlife Fund on  
291 warrants issued by the Executive Director of the Department of



292 Finance and Administration upon requisition signed by the  
293 Executive Director of the Mississippi Department of Wildlife,  
294 Fisheries and Parks.

295 (b) The money deposited under Section 11 of this act  
296 shall be used to defray all administrative costs of the ATV/ORV  
297 numbering division of the department and to improve the law  
298 enforcement capability of the department in the State of  
299 Mississippi and as may be budgeted by the department for the  
300 purpose of paying the costs of the administration of Sections 1  
301 through 13 of this act. Unexpended amounts of the money deposited  
302 under Section 11 of this act remaining in the fund at the end of  
303 the fiscal year shall not lapse into the State General Fund, and  
304 any interest earned or investment earnings on amounts in the fund  
305 shall be deposited into such fund.

306 (3) The department shall prepare and submit annually to the  
307 Legislature a budget for its proposed operation. The budget  
308 required shall reflect all anticipated revenues from all sources,  
309 including all grants and matching funds, together with all  
310 proposed expenditures. The budget shall be prepared in the same  
311 manner as is now required of other departments of this state. The  
312 department shall be subject to budgetary control and audit in the  
313 same manner as is provided by law for other departments and  
314 agencies. Nothing in this section shall be construed as requiring  
315 legislative appropriation of such Fisheries and Wildlife Fund, but  
316 it is intended that expenditure of such funds shall be under



317 authority of the budget approved as herein provided and as  
318 authorized by the Legislature.

319 **SECTION 15.** Section 49-7-251, Mississippi Code of 1972, is  
320 amended as follows:

321 49-7-251. (1) Except as otherwise provided in Section  
322 49-7-257, when any property is seized pursuant to Section  
323 49-7-103, 49-15-21(2) or 59-21-33, Mississippi Code of 1972, or  
324 Section 13 of this act, proceedings under this section shall be  
325 instituted promptly. Provided, however, that the seizing law  
326 enforcement agency may, in the sound exercise of discretion,  
327 decide not to bring a forfeiture action if the interests of bona  
328 fide lienholders or secured creditors equal or exceed the value of  
329 the seized property, or if other factors would produce a negative  
330 economic result. Provided further, that no property shall be  
331 subject to forfeiture which has been stolen from its owner if the  
332 owner can be identified and prosecution for the theft has been  
333 initiated.

334 (2) A petition for forfeiture shall be filed promptly in the  
335 name of the State of Mississippi, the county or the municipality  
336 and may be filed in the county in which the seizure is made, the  
337 county in which the criminal prosecution is brought or the county  
338 in which the owner of the seized property is found. Forfeiture  
339 proceedings may be brought in the circuit court or the county  
340 court if a county court exists in the county and the value of the  
341 seized property is within the jurisdictional limits of the county



342 court as set forth in Section 9-9-21, Mississippi Code of 1972. A  
343 copy of such petition shall be served upon the following persons  
344 by service of process in the same manner as in civil cases:

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

346 (b) Any secured party who has registered his lien or  
347 filed a financing statement as provided by law, if the identity of  
348 such secured party can be ascertained by the Department of  
349 Wildlife Conservation or the local law enforcement agency by  
350 making a good faith effort to ascertain the identity of such  
351 secured party as described in subsections (3), (4), (5), (6) and  
352 (7) of this section;

353 (c) Any other bona fide lienholder or secured party or  
354 other person holding an interest in the property in the nature of  
355 a security interest of whom the Department of Wildlife  
356 Conservation or the local law enforcement agency has actual  
357 knowledge; and

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

360 (3) If the property is a motor vehicle susceptible of  
361 titling under the Mississippi Motor Vehicle Title Law and if there  
362 is any reasonable cause to believe that the vehicle has been  
363 titled, the Department of Wildlife Conservation or the local law  
364 enforcement agency shall make inquiry of the State Tax Commission  
365 as to what the records of the State Tax Commission show as to who



366 is the record owner of the vehicle and who, if anyone, holds any  
367 lien or security interest which affects the vehicle.

368 (4) If the property is a motor vehicle and is not titled in  
369 the State of Mississippi, then the Department of Wildlife  
370 Conservation or the local law enforcement agency shall attempt to  
371 ascertain the name and address of the person in whose name the  
372 vehicle is licensed, and if the vehicle is licensed in a state  
373 which has in effect a certificate of title law, the Department of  
374 Wildlife Conservation or the local law enforcement agency shall  
375 make inquiry of the appropriate agency of that state as to what  
376 the records of the agency show as to who is the record owner of  
377 the vehicle and who, if anyone, holds any lien, security interest  
378 or other instrument in the nature of a security device which  
379 affects the vehicle.

380 (5) If the property is of a nature that a financing  
381 statement is required by the laws of this state to be filed to  
382 perfect a security interest affecting the property and if there is  
383 any reasonable cause to believe that a financing statement  
384 covering the security interest has been filed under the laws of  
385 this state, the Department of Wildlife Conservation or the local  
386 law enforcement agency shall make inquiry of the appropriate  
387 office designated in Section 75-9-501, Mississippi Code of 1972,  
388 as to what the records show as to who is the record owner of the  
389 property and who, if anyone, has filed a financing statement  
390 affecting the property.





391 (6) If the property is an aircraft or part thereof and if  
392 there is any reasonable cause to believe that an instrument in the  
393 nature of a security device affects the property, then the  
394 Department of Wildlife Conservation or the local law enforcement  
395 agency shall make inquiry of the Administrator of the Mississippi  
396 Aeronautics Commission as to what the records of the Federal  
397 Aviation Administration show as to who is the record owner of the  
398 property and who, if anyone, holds an instrument in the nature of  
399 a security device which affects the property.

400 (7) In the case of all other personal property subject to  
401 forfeiture, if there is any reasonable cause to believe that an  
402 instrument in the nature of a security device affects the  
403 property, then the Department of Wildlife Conservation or the  
404 local law enforcement agency shall make a good faith inquiry to  
405 identify the holder of any such instrument.

406 (8) In the event the answer to an inquiry states that the  
407 record owner of the property is any person other than the person  
408 who was in possession of it when it was seized, or states that any  
409 person holds any lien, encumbrance, security interest, other  
410 interest in the nature of a security interest, mortgage or deed of  
411 trust which affects the property, the Department of Wildlife  
412 Conservation or the local law enforcement agency shall cause any  
413 record owner and also any lienholder, secured party, other person  
414 who holds an interest in the property in the nature of a security  
415 interest which affects the property to be named in the petition of



416 forfeiture and to be served with process in the same manner as in  
417 civil cases.

418 (9) If the owner of the property cannot be found and served  
419 with a copy of the petition of forfeiture, or if no person was in  
420 possession of the property subject to forfeiture at the time that  
421 it was seized and the owner of the property is unknown, the  
422 Department of Wildlife Conservation or the local law enforcement  
423 agency shall file with the clerk of the court in which the  
424 proceeding is pending an affidavit to such effect, whereupon the  
425 clerk of the court shall publish notice of the hearing addressed  
426 to "the Unknown Owner of \_\_\_\_\_," filling in the blank  
427 space with a reasonably detailed description of the property  
428 subject to forfeiture. Service by publication shall contain the  
429 other requisites prescribed in Section 11-33-41, Mississippi Code  
430 of 1972, and shall be served as provided in Section 11-33-37,  
431 Mississippi Code of 1972, for publication of notice for  
432 attachments at law.

433 (10) No proceedings instituted pursuant to the provisions of  
434 this section shall proceed to hearing unless the judge conducting  
435 the hearing is satisfied that this section has been complied with.  
436 Any answer received from an inquiry required by subsections (3)  
437 through (7) of this section shall be introduced into evidence at  
438 the hearing.

439 **SECTION 16.** Section 49-7-253, Mississippi Code of 1972, is  
440 amended as follows:



441 49-7-253. (1) Except as otherwise provided in Section  
442 49-7-257, an owner of property that has been seized pursuant to  
443 Section 49-7-103, 49-15-21(2) or 59-21-33, Mississippi Code of  
444 1972, or Section 13 of this act, shall file an answer within  
445 thirty (30) days after the completion of service of process. If  
446 an answer is not filed, the court shall hear evidence that the  
447 property is subject to forfeiture and forfeit the property to the  
448 Mississippi Department of Wildlife, Fisheries and Parks or the  
449 local law enforcement agency. If an answer is filed, a time for  
450 hearing on forfeiture shall be set within thirty (30) days of  
451 filing the answer or at the succeeding term of court, if court  
452 would not be in progress within thirty (30) days after filing the  
453 answer. Provided, however, that upon request by the Mississippi  
454 Department of Wildlife, Fisheries and Parks, the local law  
455 enforcement agency or the owner of the property, the court may  
456 postpone said forfeiture hearing to a date past the time any  
457 criminal action is pending against said owner.

458 (2) If the owner of the property has filed an answer denying  
459 that the property is subject to forfeiture, then the burden is on  
460 the petitioner to prove that the property is subject to  
461 forfeiture. However, if an answer has not been filed by the owner  
462 of the property, the petition for forfeiture may be introduced  
463 into evidence and is prima facie evidence that the property is  
464 subject to forfeiture. The standard of proof placed upon the



465 petitioner in regard to property forfeited under the provisions of  
466 this article shall be by a preponderance of the evidence.

467 (3) At the hearing any claimant of any right, title or  
468 interest in the property may prove his lien, encumbrance, security  
469 interest or other interest in the nature of a security interest to  
470 be bona fide and created without knowledge or consent that the  
471 property was to be used so as to cause the property to be subject  
472 to forfeiture.

473 (4) If it is found that the property is subject to  
474 forfeiture, then the judge shall forfeit the property to the  
475 Mississippi Department of Wildlife, Fisheries and Parks or the  
476 local law enforcement agency. However, if proof at the hearing  
477 discloses that the interest of any bona fide lienholder, secured  
478 party, other person holding an interest in the property in the  
479 nature of a security interest is greater than or equal to the  
480 present value of the property, the court shall order the property  
481 released to him. If such interest is less than the present value  
482 of the property and if the proof shows that the property is  
483 subject to forfeiture, the court shall order the property  
484 forfeited to the Mississippi Department of Wildlife, Fisheries and  
485 Parks or the local law enforcement agency.

486 **SECTION 17.** Section 49-7-257, Mississippi Code of 1972, is  
487 amended as follows:

488 49-7-257. (1) When any property the value of which does not  
489 exceed Five Thousand Dollars (\$5,000.00), is seized pursuant to



490 Section 49-7-103, 49-15-21(2) or 59-21-33, Mississippi Code of  
491 1972, or Section 13 of this act, the property may be forfeited by  
492 the administrative forfeiture procedures provided for in this  
493 section.

494 (2) The attorney for the seizing law enforcement agency  
495 shall provide notice of intention to forfeit the seized property  
496 administratively, by certified mail, return receipt requested, to  
497 all persons who are required to be notified pursuant to Section  
498 49-7-251(2).

499 (3) In the event that notice of intention to forfeit the  
500 seized property administratively cannot be given as provided in  
501 subsection (2) of this section because of refusal, failure to  
502 claim, insufficient address or any other reason, the attorney for  
503 the seizing law enforcement agency shall provide notice by  
504 publication in a newspaper of general circulation in the county in  
505 which the seizure occurred for once a week for three (3)  
506 consecutive weeks.

507 (4) Notice pursuant to subsections (2) and (3) of this  
508 section shall include the following information:

- 509 (a) A description of the property;
- 510 (b) The approximate value of the property;
- 511 (c) The date and place of the seizure;
- 512 (d) The connection between the property and the  
513 violation of the Game and Fish Law, as set forth in Section  
514 49-7-103, Mississippi Code of 1972;



515 (e) The instructions for filing a request for judicial  
516 review; and

517 (f) A statement that the property will be forfeited to  
518 the seizing law enforcement agency if a request for judicial  
519 review is not timely filed.

520 (5) Persons claiming an interest in the seized property may  
521 initiate judicial review of the seizure and proposed forfeiture by  
522 filing a request for judicial review with the attorney for the  
523 seizing law enforcement agency, within thirty (30) days after  
524 receipt of the certified letter or within thirty (30) days after  
525 the first publication of notice, whichever is applicable.

526 (6) If no request for judicial review is timely filed, the  
527 attorney for the seizing law enforcement agency shall prepare a  
528 written declaration of forfeiture of the subject property and the  
529 forfeited property shall be used, distributed or disposed of in  
530 accordance with the provisions of Section 49-7-255.

531 (7) Upon receipt of a timely request for judicial review,  
532 the attorney for the seizing law enforcement agency shall promptly  
533 file a petition for forfeiture and proceed as provided in Section  
534 49-7-251.

535 **SECTION 18.** This act shall take effect and be in force from  
536 and after July 1, 2018.

