

By: Representative Bomgar

To: Judiciary A

HOUSE BILL NO. 239

1 AN ACT TO AUTHORIZE A CURRENT OWNER OF A MOTOR VEHICLE TO
2 CONTEST THE SALE OF SUCH VEHICLE BY FILING A NOTICE OF APPEAL WITH
3 THE CIRCUIT COURT IN THE COUNTY WHERE THE SALE IS SCHEDULED TO
4 OCCUR; TO BRING FORWARD SECTIONS 63-23-5 AND 63-23-9, MISSISSIPPI
5 CODE OF 1972, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED
6 PURPOSES.

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

8 **SECTION 1.** (1) The current owners, registrants, secured
9 parties, and lienholders of record, if any, of a motor vehicle,
10 prior to the sale, may contest the sale of the motor vehicle by
11 filing a notice of appeal with the circuit court in the county
12 where the sale is scheduled to occur.

13 (2) If no application for hearing is timely made by the
14 current owners, registrants, secured parties, or lienholders of
15 record, if any, for the motor vehicle, the motor vehicle may be
16 sold at the time and place designated in the notice of sale and
17 any personal property or items contained in the vehicle may be
18 disposed of in a manner determined by the person or entity
19 conducting the sale.



20 (3) If application for a hearing is timely made by the
21 current owners, registrants, secured parties, or lienholders of
22 record, if any, for the motor vehicle, then all such parties shall
23 be provided notice by the circuit court. The circuit court shall
24 conduct a hearing to determine if the motor vehicle is an
25 abandoned motor vehicle as defined by this chapter and whether
26 proper notices were provided. The motor vehicle shall not be sold
27 pending the decision by the circuit court.

28 (4) If the circuit court judge determines that the motor
29 vehicle was abandoned and that proper notice or notices were
30 issued, the motor vehicle may be sold as an abandoned motor
31 vehicle after notice of the sale.

32 (5) Any contest regarding the sale of an abandoned motor
33 vehicle, after the sale has occurred, shall be filed in the
34 circuit court in the county where the sale occurred. Any contest
35 regarding the reasonable cost of repair, towing, storage, and all
36 reasonable expenses incurred in connection with the sale shall be
37 filed in the circuit court in the county where the sale is
38 scheduled or has occurred.

39 **SECTION 2.** Section 63-23-5, Mississippi Code of 1972, is
40 brought forward as follows:

41 63-23-5. (1) Any automobile dealer, wrecker service, or
42 repair service owner, or any person or party on whose property a
43 motor vehicle is lawfully towed at the written request of a law
44 enforcement officer, who shall have an abandoned motor vehicle on



45 his property, may sell, free and clear of all claims such motor
46 vehicle by public auction, or if the abandoned motor vehicle has
47 no market value, may dispose of the same after having received at
48 least two (2) written statements from licensed automobile dealers
49 as to the worthlessness of such motor vehicle and after compliance
50 with subsection (2) of this section and Section 63-23-9. An
51 abandoned motor vehicle as defined by Section 63-23-3(b) shall not
52 be sold at auction until thirty (30) days from date of removal
53 from a public street, road or highway.

54 (2) The person authorized to execute the sale or disposal of
55 an abandoned motor vehicle shall notify, within ten (10) days of
56 receipt of such vehicle, any Mississippi lienholder on such
57 vehicle that unless a claim on the vehicle is made within thirty
58 (30) days of such notice, the vehicle will be sold or destroyed.

59 (3) After the sale of any vehicle as set out hereinabove is
60 made, the person or officer designated and making the sale of such
61 property shall promptly upon completion of the sale deliver to the
62 chancery clerk a list or itemization of the property sold, the
63 amount paid for each item, the person to whom each item was sold,
64 and all monies received from such sale, the gross charges levied
65 by the person making the sale against the property sold and the
66 net amount paid over to the chancery clerk. Any sale made by any
67 person, officer, corporation or association, shall have attached
68 to the report of sale a sworn statement certifying as to the date
69 such personal property or items sold first came into his



70 possession or was abandoned on his premises and the date said
71 personal property or item was sold.

72 (4) The proceeds of the sale in excess of repair, towing and
73 storage expenses and all expenses incurred in connection with a
74 sale when a sale is made under the provisions of this chapter,
75 shall escheat to the county and shall be paid over to the chancery
76 clerk to be placed into the general fund of the county in which
77 the vehicle is abandoned. However, in those municipalities
78 availing themselves of the provisions of Section 21-39-21, the
79 proceeds of the sale in excess of the repairs, towing, storage or
80 other necessary expenses incurred shall escheat to the general
81 fund of the municipality.

82 **SECTION 3.** Section 63-23-9, Mississippi Code of 1972, is
83 brought forward as follows:

84 63-23-9. The last-known registered owner of an abandoned
85 motor vehicle and all lienholders of record, when such information
86 is reasonably obtainable, shall be notified by registered or
87 certified mail that such vehicle will be sold pursuant to the
88 provisions of this chapter. Said notice shall give such owner and
89 lienholders the date, time and place of sale and name of the
90 person or party who has custody of such vehicle.

91 If the identity of the last registered owner cannot be
92 determined, or if the registration contains no address for the
93 owner, or if it is impossible to determine with reasonable
94 certainty the identity and addresses of all lienholders, notice by



95 three publications once each week for three consecutive weeks in a
96 newspaper of general circulation in the county where the motor
97 vehicle was abandoned shall be sufficient to meet all requirements
98 of notice pursuant to this chapter.

99 **SECTION 4.** This act shall take effect and be in force from
100 and after July 1, 2023.

