

By: Representatives Baker, Staples, Eure,
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To: Judiciary A

HOUSE BILL NO. 1104

1 AN ACT TO REENACT SECTION 41-29-176, MISSISSIPPI CODE OF
2 1972, WHICH ESTABLISHES PROCEDURES FOR THE ADMINISTRATIVE
3 FORFEITURE OF CERTAIN PROPERTY SEIZED UNDER THE UNIFORM CONTROLLED
4 SUBSTANCES LAW, WHICH WAS AUTOMATICALLY REPEALED BY OPERATION OF
5 LAW ON JULY 1, 2018; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 41-29-176, Mississippi Code of 1972,
8 which was automatically repealed by operation of law on July 1,
9 2018, is reenacted as follows:

10 41-29-176. (1) Except as otherwise provided in Section
11 41-29-107.1, when any property other than a controlled substance,
12 raw material or paraphernalia, the value of which does not exceed
13 Twenty Thousand Dollars (\$20,000.00), is seized under the Uniform
14 Controlled Substances Law, the property may be forfeited by the
15 administrative forfeiture procedures provided for in this section.

16 (2) The attorney for or any representative of the seizing
17 law enforcement agency shall provide notice of intention to
18 forfeit the seized property administratively, either by certified
19 mail, return receipt requested, or by personal delivery, to all



20 persons who are required to be notified pursuant to Section
21 41-29-177(2).

22 (3) If notice of intention to forfeit the seized property
23 administratively cannot be given as provided in subsection (2) of
24 this section because of refusal, failure to claim, insufficient
25 address or any other reason, the attorney for or representative of
26 the seizing law enforcement agency shall provide notice by
27 publication in a newspaper of general circulation in the county in
28 which the seizure occurred for once a week for three (3)
29 consecutive weeks. However, if the value of the property seized
30 does not exceed Ten Thousand Dollars (\$10,000.00), substitute
31 notice under this subsection (3) of intention to administratively
32 forfeit the property may be made by posting a notice on an
33 official state government forfeiture site for at least thirty (30)
34 consecutive days. The site shall be created and maintained by the
35 Mississippi Bureau of Narcotics. Should other seizing law
36 enforcement agencies choose to utilize the site for Internet
37 publication, the bureau may charge a reasonable fee for such
38 usage.

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

- 41 (a) A description of the property;
- 42 (b) The approximate value of the property;
- 43 (c) The date and place of the seizure;



44 (d) The connection between the property and the
45 violation of the Uniform Controlled Substances Law;

46 (e) The instructions for filing a request for judicial
47 review; and

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

51 (5) Any person claiming an interest in property which is the
52 subject of a notice under this section may, within thirty (30)
53 days after receipt of the notice or of the date of the first
54 publication of the notice, file a petition to contest forfeiture
55 signed by the claimant in the county court, if a county court
56 exists, or otherwise in the circuit court of the county in which
57 the seizure is made or the county in which the criminal
58 prosecution is brought, in order to claim an interest in the
59 property. Upon the filing of the petition and the payment of the
60 filing fees, service of the petition shall be made on the attorney
61 for or representative of the seizing law enforcement agency, and
62 the proceedings shall thereafter be governed by the rules of civil
63 procedure.

64 (6) If no petition to contest forfeiture is timely filed and
65 a seizure warrant was properly obtained, the district attorney or
66 his or her designee or the attorney for the bureau, as applicable,
67 shall prepare a written declaration of forfeiture of the subject
68 property and the forfeited property shall be used, distributed or



69 disposed of in accordance with the provisions of Section
70 41-29-181.

71 **SECTION 2.** This act shall take effect and be in force from
72 and after its passage.

