

By: Representative Compretta

To: Judiciary B

HOUSE BILL NO. 313

1 AN ACT TO AMEND SECTION 97-23-93, MISSISSIPPI CODE OF 1972,
 2 TO CLARIFY THE IMPOSITION OF ENHANCED PENALTIES FOR CONVICTIONS OF
 3 SHOPLIFTING VIOLATIONS; TO PROVIDE THAT, WHEN DETERMINING THE
 4 IMPOSITION OF A SENTENCE FOR A SECOND, THIRD OR SUBSEQUENT
 5 CONVICTION, AN INDICTMENT FOR A SHOPLIFTING VIOLATION SHALL NOT BE
 6 REQUIRED TO ENUMERATE PREVIOUS CONVICTIONS BUT ONLY THAT IT STATE
 7 THE NUMBER OF TIMES THAT THE DEFENDANT HAS BEEN CONVICTED AND
 8 SENTENCED; TO PROVIDE THAT EVEN IF THE SENTENCE IMPOSED FOR A
 9 PREVIOUS VIOLATION DID NOT TAKE INTO CONSIDERATION THAT THE
 10 VIOLATION WAS A SECOND, THIRD OR SUBSEQUENT CONVICTION, THE COURT
 11 SHALL CONSIDER ALL PREVIOUS CONVICTIONS WHEN IMPOSING THE SENTENCE
 12 FOR A SUBSEQUENT CONVICTION; AND FOR RELATED PURPOSES.

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

14 SECTION 1. Section 97-23-93, Mississippi Code of 1972, is
 15 amended as follows:

16 97-23-93. (1) Any person who shall willfully and unlawfully
 17 take possession of any merchandise owned or held by and offered or
 18 displayed for sale by any merchant, store or other mercantile
 19 establishment with the intention and purpose of converting such
 20 merchandise to his own use without paying the merchant's stated
 21 price therefor shall be guilty of the crime of shoplifting and,
 22 upon conviction, shall be punished as is provided in this section.

23 (2) The requisite intention to convert merchandise without
 24 paying the merchant's stated price for the merchandise is
 25 presumed, and shall be prima facie evidence thereof, when such
 26 person, alone or in concert with another person, willfully:

27 (a) Conceals the unpurchased merchandise;

28 (b) Removes or causes the removal of unpurchased
 29 merchandise from a store or other mercantile establishment;

30 (c) Alters, transfers or removes any price-marking, any
 31 other marking which aids in determining value affixed to the



32 unpurchased merchandise, or any tag or device used in electronic
33 surveillance of unpurchased merchandise;

34 (d) Transfers the unpurchased merchandise from one (1)
35 container to another; or

36 (e) Causes the cash register or other sales recording
37 device to reflect less than the merchant's stated price for the
38 unpurchased merchandise.

39 (3) Evidence of stated price or ownership of merchandise may
40 include, but is not limited to:

41 (a) The actual merchandise or the container which held
42 the merchandise alleged to have been shoplifted; or

43 (b) The content of the price tag or marking from such
44 merchandise; or

45 (c) Properly identified photographs of such
46 merchandise.

47 (4) Any merchant or his agent or employee may testify at a
48 trial as to the stated price or ownership of merchandise.

49 (5) A person convicted of shoplifting merchandise for which
50 the merchant's stated price is less than or equal to Two Hundred
51 Fifty Dollars (\$250.00) shall be punished as follows:

52 (a) Upon a first shoplifting conviction the defendant
53 shall be guilty of a misdemeanor and fined not more than Seven
54 Hundred Fifty Dollars (\$750.00), or punished by imprisonment not
55 to exceed thirty (30) days, or by both such fine and imprisonment.

56 (b) Upon a second shoplifting conviction the defendant
57 shall be guilty of a misdemeanor and fined not more than One
58 Thousand Dollars (\$1,000.00) or punished by imprisonment not to
59 exceed ninety (90) days, or by both such fine and imprisonment.

60 (6) Upon a third or subsequent shoplifting conviction the
61 defendant shall be guilty of a felony and fined not more than One
62 Thousand Dollars (\$1,000.00), or imprisoned for a term not
63 exceeding five (5) years, or by both such fine and imprisonment.



64 (7) A person convicted of shoplifting merchandise for which
65 the merchant's stated price exceeds Two Hundred Fifty Dollars
66 (\$250.00) shall be guilty of a felony and, upon conviction,
67 punished as provided in Section 97-17-41 for the offense of grand
68 larceny.

69 (8) In determining the number of prior shoplifting
70 convictions for purposes of imposing punishment under this
71 section, the court shall disregard all such convictions occurring
72 more than seven (7) years prior to the shoplifting offense in
73 question. For purposes of determining how to impose the sentence
74 for a second, third or subsequent conviction under this section,
75 the indictment shall not be required to enumerate previous
76 convictions. It shall only be necessary that the indictment state
77 the number of times that the defendant has been convicted and
78 sentenced within the past seven (7) years under this section to
79 determine if an enhanced penalty shall be imposed. Regardless of
80 whether the sentence imposed for a previous violation took into
81 consideration that such violation was a second, third or
82 subsequent conviction, the court, in imposing the sentence for
83 any subsequent conviction, shall consider all previous convictions
84 for purposes of determining the sentence for such subsequent
85 conviction. The amount of fine and imprisonment imposed in
86 previous convictions shall not be considered in calculating
87 offenses to determine a second, third or subsequent violation of
88 this section.

89 SECTION 2. This act shall take effect and be in force from
90 and after July 1, 2001.

