SENATE BILL NO. 2756
(As Sent to Governor)

AN ACT TO PROHIBIT USE OF THEFT DETECTION SHIELDING DEVICES;
TO ENACT DEFINITIONS AND PENALTIES; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) As used in this section:
(a) "Theft detection device" means any tag or other device that is used to prevent or detect theft and that is attached to merchandise held for resale by a merchant or to property of a merchant.
(b) "Theft detection device remover" means any tool or device specifically designed or manufactured to be used to remove a theft detection device from merchandise held for resale by a merchant or property of a merchant.
(c) "Theft detection shielding device" means any laminated or coated bag or device designed to shield merchandise held for resale by a merchant or property of a merchant from being detected by an electronic or magnetic theft alarm sensor.

(2) (a) A person commits unlawful distribution of a theft detection shielding device when he or she knowingly manufactures, sells, offers to sell or distributes any theft detection shielding device.
(b) A person commits unlawful possession of a theft detection shielding device when he or she knowingly possesses any theft detection shielding device with the intent to commit larceny or shoplifting.
(c) A person commits unlawful possession of a theft detection device remover when he or she knowingly possesses any
theft detection device remover with the intent to use such tool to
remove any theft detection device from any merchandise without the
permission of the merchant or person owning or holding said
merchandise.

(d) A person commits unlawful use of a theft detection
shielding device or a theft detection device remover when he or
she uses or attempts to use either device while committing a
violation of Section 97-23-93, Mississippi Code of 1972.

(e) Any person convicted of violating this subsection
(2) is guilty of a misdemeanor, and upon conviction thereof, shall
be imprisoned for not less than thirty (30) days nor more than one
year, and fined not less than Two Hundred Fifty Dollars
($250.00), nor more than One Thousand Dollars ($1,000.00).

(3) (a) A person commits unlawful removal of a theft
detection device when he or she intentionally removes any theft
detection device from merchandise prior to purchase without the
permission of the merchant or person owning or holding said
merchandise.

(b) Any person convicted of violating this subsection
(3) is guilty of a misdemeanor, and upon conviction thereof, shall
be fined not less than One Hundred Dollars ($100.00) nor more than
Five Hundred Dollars ($500.00), and such fine shall not be
suspended, or the person shall be imprisoned not more than sixty
days, or both.

(4) (a) The activation of an anti-shoplifting or inventory
control device as a result of a person exiting the establishment
or a protected area within the establishment shall constitute
reasonable cause for the detention of the person so exiting by the
owner or operator of the establishment or by an agent or employee
of the owner or operator, provided notice has been posted to
advise patrons that such a device is being utilized. Each such
detention shall be made only in a reasonable manner and only for a
reasonable period of time sufficient for any inquiry into the
circumstances surrounding the activation of the device or for the
recovery of goods.

(b) The taking into custody and detention by a law
enforcement officer, merchant or merchant's employee, if in
compliance with the requirements of this section, does not render
such law enforcement officer, merchant or merchant's employee
criminally or civilly liable for false arrest, false imprisonment,
unlawful detention, malicious prosecution, intentional infliction
of emotional distress or defamation.

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