

By: Representative Mayo

To: Judiciary B

HOUSE BILL NO. 604

1 AN ACT TO CLARIFY THE CRIMINALITY OF THEFT OF RENTAL
2 PROPERTY; TO AMEND SECTIONS 97-17-41 AND 97-17-43, MISSISSIPPI
3 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** (1) Whoever, with the intent to defraud the
6 owner or any person lawfully possessing any personal property or
7 equipment, obtains the custody of such personal property or
8 equipment by trick, deceit, or fraudulent or willful false
9 representation shall be guilty of a misdemeanor, punishable as
10 provided in Section 97-17-43, unless the value of the personal
11 property or equipment is of a value of Five Hundred Dollars
12 (\$500.00) or more; in that event the violation constitutes a
13 felony, punishable as provided in Section 97-17-41.

14 (2) Whoever, with intent to defraud the owner or any person
15 lawfully possessing any personal property or equipment of the
16 rental thereof, hires or leases said personal property or
17 equipment from such owner or such owner's agents or any person in
18 lawful possession thereof shall, upon conviction, be guilty of a
19 misdemeanor, punishable as provided in Section 97-17-43, unless
20 the value of the personal property or equipment is of a value of
21 Five Hundred Dollars (\$500.00) or more; in that event the
22 violation constitutes a felony, punishable as provided in Section
23 97-17-41.

24 (3) Whoever, after hiring or leasing any personal property
25 or equipment under an agreement to redeliver the same to the
26 person letting such personal property or equipment or his or agent
27 at the termination of the period for which it was let, shall,

28 without the consent of such person or persons and with the intent
29 to defraud, abandon or willfully refuse to redeliver such personal
30 property or equipment as agreed, shall, upon conviction, be guilty
31 of a misdemeanor, punishable as provided in Section 97-17-43,
32 unless the value of the personal property or equipment is of a
33 value of Five Hundred Dollars (\$500.00) or more; in that event the
34 violation constitutes a felony, punishable as provided in Section
35 97-17-41.

36 (4) (a) In prosecutions under this section, obtaining the
37 property or equipment under false pretenses; absconding without
38 payment; or removing or attempting to remove the property or
39 equipment from the county without the express written consent of
40 the lessor, is prima facie evidence of fraudulent intent.

41 (b) In a prosecution under subsection (3), failure to
42 redeliver the property or equipment within five (5) days after
43 receipt of, or within five (5) days after return receipt from, the
44 certified mailing of the demand for return is prima facie evidence
45 of fraudulent intent. Notice mailed by certified mail, return
46 receipt requested, to the address given by the renter at the time
47 of rental shall be deemed sufficient and equivalent to notice
48 having been received by the renter, should the notice be returned
49 undelivered.

50 (c) In a prosecution under subsection (3), failure to
51 pay any amount due which is incurred as the result of the failure
52 to redeliver property after the rental period expires, and after
53 the demand for return is made, is prima facie evidence of
54 fraudulent intent. Amounts due include unpaid rental for the time
55 period during which the property or equipment was not returned and
56 include the lessor of the cost of repairing or replacing the
57 property or equipment if it has been damaged.

58 (5) Demand for return of overdue property or equipment and
59 for payment of amounts due may be made in person, by hand

60 delivery, or by certified mail, return receipt requested,
61 addressed to the lessee's address shown in the rental contract.

62 **SECTION 2.** Section 97-17-41, Mississippi Code of 1972, is
63 amended as follows:

64 97-17-41. (1) Every person who shall be convicted of taking
65 and carrying away, feloniously, the personal property of another,
66 of the value of Five Hundred Dollars (\$500.00) or more, or a
67 violation of Section 1 of House Bill No. ____, 2006 Regular
68 Session, shall be guilty of grand larceny, and shall be imprisoned
69 in the Penitentiary for a term not exceeding ten (10) years; or
70 shall be fined not more than Ten Thousand Dollars (\$10,000.00), or
71 both. The total value of property taken and carried away by the
72 person from a single victim shall be aggregated in determining the
73 gravity of the offense.

74 (2) Every person who shall be convicted of taking and
75 carrying away, feloniously, the property of a church, synagogue,
76 temple or other established place of worship, of the value of Five
77 Hundred Dollars (\$500.00) or more, shall be guilty of grand
78 larceny, and shall be imprisoned in the Penitentiary for a term
79 not exceeding ten (10) years, or shall be fined not more than Ten
80 Thousand Dollars (\$10,000.00), or both.

81 **SECTION 3.** Section 97-17-43, Mississippi Code of 1972, is
82 amended as follows:

83 97-17-43. (1) If any person shall feloniously take, steal
84 and carry away any personal property of another under the value of
85 Five Hundred Dollars (\$500.00), or a violation of Section 1 of
86 House Bill No. ____, 2006 Regular Session, he shall be guilty of
87 petit larceny and, upon conviction, shall be punished by
88 imprisonment in the county jail not exceeding six (6) months or by
89 fine not exceeding One Thousand Dollars (\$1,000.00), or both. The
90 total value of property taken, stolen or carried away by the
91 person from a single victim shall be aggregated in determining the
92 gravity of the offense.

93 (2) If any person shall feloniously take, steal and carry
94 away any property of a church, synagogue, temple or other
95 established place of worship under the value of Five Hundred
96 Dollars (\$500.00), he shall be guilty of petit larceny and, upon
97 conviction, shall be punished by imprisonment in the county jail
98 not exceeding one (1) year or by fine not exceeding Two Thousand
99 Dollars (\$2,000.00), or both.

100 (3) Any person who leaves the premises of an establishment
101 at which motor fuel offered for retail sale was dispensed into the
102 fuel tank of a motor vehicle by driving away in that motor vehicle
103 without having made due payment or authorized charge for the motor
104 fuel so dispensed, with intent to defraud the retail
105 establishment, shall be guilty of petit larceny and punished as
106 provided in subsection (1) of this section and, upon any second or
107 subsequent such offense, the driver's license of the person shall
108 be suspended as follows:

109 (a) The person shall submit the driver's license to the
110 court upon conviction and the court shall forward the driver's
111 license to the Department of Public Safety.

112 (b) The first suspension of a driver's license under
113 this subsection shall be for a period of six (6) months.

114 (c) A second or subsequent suspension of a driver's
115 license under this subsection shall be for a period of one (1)
116 year.

117 (d) At the expiration of the suspension period, and
118 upon payment of a restoration fee of Twenty-five Dollars (\$25.00),
119 the suspension shall terminate and the Department of Public Safety
120 shall return the person's driver's license to the person. The
121 restoration fee shall be in addition to the fees provided for in
122 Title 63, Chapter 1, and shall be deposited into the State General
123 Fund in accordance with Section 45-1-23.

124 **SECTION 4.** This act shall take effect and be in force from
125 and after July 1, 2006.