

By: Representative Massengill

To: Judiciary B

HOUSE BILL NO. 722

1 AN ACT TO AMEND SECTION 97-17-42, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE FOR THE CRIME OF CARGO THEFT; TO PROVIDE FOR CERTAIN  
3 DEFINITIONS; TO PROVIDE PENALTIES; TO PROVIDE FOR THE CRIME OF  
4 UNLAWFUL POSSESSION OR USE OF A FIFTH WHEEL; TO AMEND SECTION  
5 97-25-25, IN CONFORMITY WITH THIS ACT; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 97-17-42, Mississippi Code of 1972, is  
8 amended as follows:

9 97-17-42. (1) (a) Any person who shall, willfully and  
10 without authority, take possession of or take away a motor vehicle  
11 of any value belonging to another, with intent to either  
12 permanently or temporarily convert it or to permanently or  
13 temporarily deprive the owner of possession or ownership, and any  
14 person who knowingly shall aid and abet in the taking possession  
15 or taking away of the motor vehicle, shall be guilty of larceny  
16 and shall be punished based on the value of the motor vehicle  
17 involved according to the schedule in Section 97-17-41. If the  
18 value of the motor vehicle involved is One Thousand Dollars



19 (\$1,000.00) or less, the person shall be punished according to the  
20 schedule in Section 97-17-43.

21 ( \* \* \*b) Any person convicted under this subsection  
22 who causes damage to any motor vehicle shall be ordered by the  
23 court to pay restitution to the owner or owners of the motor  
24 vehicle or vehicles damaged.

25 ( \* \* \*c) This subsection shall not apply to the  
26 enforcement of a security interest in a motor vehicle.

27 ( \* \* \*d) Any person who shall be convicted for a  
28 second or subsequent offense under this subsection shall be  
29 imprisoned in the Penitentiary for a term not exceeding twice the  
30 term authorized based on the value of the motor vehicle involved  
31 in the subsequent offense according to the schedule in Section  
32 97-17-41 or shall be fined not more than Ten Thousand Dollars  
33 (\$10,000.00), or both.

34 (2) (a) For purposes of this subsection, the term "vehicle"  
35 includes, without limitation, any railcar and locomotive.

36 (b) Notwithstanding any provision of this section to  
37 the contrary, a person commits the offense of cargo theft when he  
38 or she unlawfully takes or, being in lawful possession thereof,  
39 unlawfully appropriates:

40 (i) Any vehicle engaged in commercial  
41 transportation of cargo or any appurtenance thereto, including,  
42 without limitation, any trailer, semitrailer, container, or other  
43 associated equipment, or the cargo being transported therein or



44 thereon, which is the property of another with the intention of  
45 depriving such other person of the property, regardless of the  
46 manner in which the property is taken or appropriated; or

47 (ii) Any trailer, semitrailer, container, or other  
48 associated equipment, or the cargo being transported therein or  
49 thereon, which is deployed by or used by a law enforcement agency,  
50 which is the property of another with the intention of depriving  
51 such other person of the property, regardless of the manner in  
52 which the property is taken or appropriated.

53 (c) The value of a vehicle engaged in commercial  
54 transportation of cargo and any appurtenance thereto and the cargo  
55 being transported which is taken or unlawfully appropriated shall  
56 be based on the fair market value of such vehicle, appurtenances  
57 and cargo taken or unlawfully appropriated.

58 (d) (i) If the property taken is one or more  
59 controlled substances as defined in Section 41-29-105 with a  
60 collective value of less than Ten Thousand Dollars (\$10,000.00), a  
61 person convicted of a violation of this subsection shall be  
62 punished by imprisonment for not less than one (1) nor more than  
63 ten (10) years, a fine of not less than Ten Thousand Dollars  
64 (\$10,000.00) nor more than One Hundred Thousand Dollars  
65 (\$100,000.00), or both.

66 (ii) If the property taken is one or more  
67 controlled substances as defined in Section 41-29-105 with a  
68 collective value of at least Ten Thousand Dollars (\$10,000.00) but



69 less than One Million Dollars (\$1,000,000.00), a person convicted  
70 of a violation of this subsection shall be punished by  
71 imprisonment for not less than five (5) nor more than twenty-five  
72 (25) years, a fine of not less than Fifty Thousand Dollars  
73 (\$50,000.00) nor more than One Million Dollars (\$1,000,000.00), or  
74 both.

75 (iii) If the property taken is one or more  
76 controlled substances as defined in Section 41-29-105 with a  
77 collective value of One Million Dollars (\$1,000,000.00) or more, a  
78 person convicted of a violation of this subsection shall be  
79 punished by imprisonment for not less than ten (10) nor more than  
80 thirty (30) years, a fine of not less than One Hundred Thousand  
81 Dollars (\$100,000.00) nor more than One Million Dollars  
82 (\$1,000,000.00), or both.

83 (e) (i) Except as otherwise provided in paragraph (d)  
84 of this subsection, if the property taken has a collective value  
85 of One Thousand Dollars (\$1,000.00) or less, a person convicted of  
86 a violation of this section shall be punished as a misdemeanor.

87 (ii) Except as otherwise provided in paragraph (d)  
88 of this subsection, if the property taken has a collective value  
89 of more than One Thousand Dollars (\$1,000.00) but less than Ten  
90 Thousand Dollars (\$10,000.00), a person convicted of a violation  
91 of this subsection shall be punished by imprisonment for not less  
92 than one (1) nor more than ten (10) years, a fine of not less than



93 Ten Thousand Dollars (\$10,000.00) nor more than One Hundred  
94 Thousand Dollars (\$100,000.00), or both.

95 (iii) Except as otherwise provided in paragraph  
96 (d) of this subsection, if the property taken has a collective  
97 value of at least Ten Thousand Dollars (\$10,000.00) but less than  
98 One Million Dollars (\$1,000,000.00), a person convicted of a  
99 violation of this subsection shall be punished by imprisonment for  
100 not less than five (5) nor more than twenty (20) years, a fine of  
101 not less than Fifty Thousand Dollars (\$50,000.00) nor more than  
102 One Million Dollars (\$1,000,000.00), or both.

103 (iv) Except as otherwise provided in paragraph (d)  
104 of this subsection, if the property taken has a collective value  
105 of One Million Dollars (\$1,000,000.00) or more, a person convicted  
106 of a violation of this subsection shall be punished by  
107 imprisonment for not less than ten (10) nor more than twenty (20)  
108 years, a fine of not less than One Hundred Thousand Dollars  
109 (\$100,000.00) nor more than One Million Dollars (\$1,000,000.00),  
110 or both.

111 (f) Notwithstanding paragraphs (d) and (e) of this  
112 subsection, if the property taken is a trailer, semitrailer,  
113 container, or other associated equipment, or the cargo being  
114 transported therein or thereon, which is deployed by or used by a  
115 law enforcement agency, regardless of its value, a person  
116 convicted of a violation of this section shall be punished by  
117 imprisonment for not less than one (1) nor more than ten (10)



118 years, a fine of not less than Ten Thousand Dollars (\$10,000.00)  
119 nor more than One Hundred Thousand Dollars (\$100,000.00), or both.

120 (g) A person convicted of a violation of this  
121 subsection may also be punished by, if applicable, the suspension  
122 of the defendant's commercial driver's license in accordance with  
123 Section 63-1-216.

124 (3) (a) For the purposes of this subsection, the term  
125 "fifth wheel" means a device mounted on a truck tractor or similar  
126 towing vehicle, including, but not limited to, a converter dolly,  
127 which interfaces with and couples to the upper coupler assembly of  
128 a semitrailer.

129 (b) It shall be unlawful for any person to modify,  
130 alter, attempt to alter, and, if altered, sell, possess, offer for  
131 sale, move, or cause to be moved on the highways of this state a  
132 device known as a fifth wheel or the antitheft locking device  
133 attached to the fifth wheel with the intent to use the fifth wheel  
134 to commit or attempt to commit cargo theft as defined in this  
135 section.

136 (c) A person convicted of a violation of this  
137 subsection shall be punished by imprisonment for not less than one  
138 (1) nor more than ten (10) years, a fine of not less than Ten  
139 Thousand Dollars (\$10,000.00) nor more than One Hundred Thousand  
140 Dollars (\$100,000.00), or both.

141 **SECTION 2.** Section 97-25-25, Mississippi Code of 1972, is  
142 amended as follows:



143           97-25-25. (1) If any person shall unlawfully seize upon any  
144 locomotive and run it away, or shall aid, abet or procure the  
145 doing of the same, he shall, upon conviction, be fined not less  
146 than Five Hundred Dollars (\$500.00) nor more than One Thousand  
147 Dollars (\$1,000.00), or imprisoned in the county jail not  
148 exceeding six (6) months, or both.

149           (2) If any person shall unlawfully seize upon any locomotive  
150 that is engaged in commercial transportation of cargo or any  
151 appurtenance thereto, they shall be punished as provided in  
152 Section 1 of this act.

153           **SECTION 3.** This act shall take effect and be in force from  
154 and after July 1, 2017.

