

By: Representatives Patterson, Haney

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 743

1 AN ACT TO AMEND SECTION 97-43-3, MISSISSIPPI CODE OF 1972, TO
2 ADD THE DEFINITION OF "ORGANIZED RETAIL THEFT"; TO BRING FORWARD
3 SECTION 97-43-3.1, MISSISSIPPI CODE OF 1972, WHICH PROVIDE THE
4 PENALTY FOR ORGANIZED RETAIL THEFT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 97-43-3, Mississippi Code of 1972, is
7 amended as follows:

8 97-43-3. The following terms shall have the meanings
9 ascribed to them herein unless the context requires otherwise:

10 (a) "Racketeering activity" means to commit, to attempt
11 to commit, to conspire to commit, or to solicit, coerce or
12 intimidate another person to commit any crime which is chargeable
13 under the following provisions of the Mississippi Code of 1972:

14 (1) Section 97-19-71, which relates to fraud in
15 connection with any state or federally funded assistance programs.

16 (2) Section 75-71-735, which relates to violations
17 of the Mississippi Securities Act.



18 (3) Sections 45-13-105, 45-13-109, 97-37-23 and
19 97-37-25, which relate to unlawful possession, use and
20 transportation of explosives.

21 (4) Sections 97-3-19 and 97-3-21, which relate to
22 murder.

23 (5) Section 97-3-7(2), which relates to aggravated
24 assaults.

25 (6) Section 97-3-53, which relates to kidnapping.

26 (7) Sections 97-3-73 through 97-3-83, which relate
27 to robbery.

28 (8) Sections 97-17-19 through 97-17-37, which
29 relate to burglary.

30 (9) Sections 97-17-1 through 97-17-13, which
31 relate to arson.

32 (10) Sections 97-29-49 and 97-29-51, which relate
33 to prostitution.

34 (11) Sections 97-5-5 and 97-5-31 through 97-5-37,
35 which relate to the exploitation of children and enticing children
36 for concealment, prostitution or marriage.

37 (12) Section 41-29-139, which relates to
38 violations of the Uniform Controlled Substances Law; provided,
39 however, that in order to be classified as "racketeering
40 activity," such offense must be punishable by imprisonment for
41 more than one (1) year.



42 (13) Sections 97-21-1 through 97-21-63, which
43 relate to forgery and counterfeiting.

44 (14) Sections 97-9-1 through 97-9-77, which relate
45 to offenses affecting administration of justice.

46 (15) Sections 97-33-1 through 97-33-49, which
47 relate to gambling and lotteries.

48 (16) Section 97-3-54 et seq., which relate to
49 human trafficking.

50 (b) "Unlawful debt" means money or any other thing of
51 value constituting principal or interest of a debt which is
52 legally unenforceable, in whole or in part, because the debt was
53 incurred or contracted in gambling activity in violation of state
54 law or in the business of lending money at a rate usurious under
55 state law, where the usurious rate is at least twice the
56 enforceable rate.

57 (c) "Enterprise" means any individual, sole
58 proprietorship, partnership, corporation, union or other legal
59 entity, or any association or group of individuals associated in
60 fact although not a legal entity. It includes illicit as well as
61 licit enterprises and governmental, as well as other, entities.

62 (d) "Pattern of racketeering activity" means engaging
63 in at least two (2) incidents of racketeering conduct that have
64 the same or similar intents, results, accomplices, victims, or
65 methods of commission or otherwise are interrelated by
66 distinguishing characteristics and are not isolated incidents,



67 provided at least one (1) of such incidents occurred after the
68 effective date of this chapter and that the last of such incidents
69 occurred within five (5) years after a prior incident of
70 racketeering conduct.

71 (e) "Organized retail theft" means (i) the stealing,
72 embezzlement, obtaining by fraud, false pretenses, or other
73 illegal means of retail merchandise in quantities that would not
74 normally be purchased for personal use or consumption for the
75 purpose of reselling or otherwise re-entering such retail
76 merchandise in commerce or (ii) the recruitment of persons to
77 participate in such criminal activities.

78 **SECTION 2.** Section 97-43-3.1, Mississippi Code of 1972, is
79 amended as follows:

80 * * *

81 97-43-3.1. (1) It shall be unlawful for any person to
82 conduct, organize, supervise or manage, directly or indirectly, an
83 organized theft or fraud enterprise. Organized retail theft or
84 fraud enterprise applies to conduct proscribed in the following
85 provisions:

86 (a) Section 97-23-93, which relates to shoplifting;

87 (b) Sections 97-45-3 and 97-45-5, which relate to
88 computer fraud;

89 (c) Section 97-45-19, which relates to fraudulent use
90 of identity;



91 (d) Section 97-9-79, which relates to false
92 information;

93 (e) Section 97-19-83, which relates to fraud by mail or
94 other means of communication;

95 (f) Section 97-19-85, which relates to the fraudulent
96 use of a social security number, credit card or debit card number
97 or other identifying information; and

98 (g) Section 97-45-19, which relates to obtaining
99 personal identity information of another person without
100 authorization.

101 (2) It shall be unlawful for any person who has, with
102 criminal intent, received any proceeds or services derived,
103 directly or indirectly, from an organized theft or fraud
104 enterprise.

105 (3) For the purposes of this section, an "organized theft or
106 fraud enterprise" means any association of two (2) or more persons
107 who engage in the conduct of or are associated for the purpose of
108 effectuating the transfer or sale of merchandise, services or
109 information that has a pecuniary value that causes a loss to the
110 victim.

111 (4) The value of the merchandise or services or the
112 pecuniary loss involved in a violation of this section may be
113 aggregated in determining the grade of the offense where the acts
114 or conduct constituting a violation were committed pursuant to one
115 (1) scheme or course of conduct, whether from the same person or



116 several persons, or were committed in furtherance of or in
117 conjunction with an organized theft or fraud enterprise.

118 (5) Any person convicted under this section shall be, upon
119 conviction, guilty of a felony and punished by a term of
120 imprisonment of not more than twenty (20) years or fined not more
121 than Twenty-five Thousand Dollars (\$25,000.00), or both.

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

