

By: Representative Massengill

To: Judiciary B

HOUSE BILL NO. 28

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, MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THIS ACT;
6 AND FOR RELATED PURPOSES.

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

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

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



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

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

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

28 (* * *d) Any person who shall be convicted for a
29 second or subsequent offense under this subsection shall be
30 imprisoned in the Penitentiary for a term not exceeding twice the
31 term authorized based on the value of the motor vehicle involved
32 in the subsequent offense according to the schedule in Section
33 97-17-41 or shall be fined not more than Ten Thousand Dollars
34 (\$10,000.00), or both.

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

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

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



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

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

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

59 (d) (i) If the property taken is one or more
60 controlled substances as defined in Section 41-29-105 with a
61 collective value of less than Ten Thousand Dollars (\$10,000.00), a
62 person convicted of a violation of this subsection shall be
63 punished by imprisonment for not less than one (1) but no more
64 than ten (10) years, a fine of not less than Ten Thousand Dollars
65 (\$10,000.00) nor more than One Hundred Thousand Dollars
66 (\$100,000.00), or both.

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



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

76 (iii) If the property taken is one or more
77 controlled substances as defined in Section 41-29-105 with a
78 collective value of One Million Dollars (\$1,000,000.00) or more, a
79 person convicted of a violation of this subsection shall be
80 punished by imprisonment for not less than ten (10) nor more than
81 thirty (30) years, a fine of not less than One Hundred Thousand
82 Dollars (\$100,000.00) nor more than One Million Dollars
83 (\$1,000,000.00), or both.

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

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



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

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

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

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



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

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

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

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

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

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



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

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

154 **SECTION 3.** This act shall take effect and be in force from
155 and after July 1, 2018.

