

By: Representative Patterson

To: Judiciary B

HOUSE BILL NO. 190

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 PROVIDES 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:

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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, 2018.

