

By: Representative Willis

To: Judiciary B

HOUSE BILL NO. 997

1 AN ACT TO AMEND SECTION 97-23-93, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE PENALTY FOR SHOPLIFTING; AND FOR RELATED PURPOSES.

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

4 **SECTION 1.** Section 97-23-93, Mississippi Code of 1972, is  
5 amended as follows:

6 97-23-93. (1) Any person who shall willfully and unlawfully  
7 take possession of any merchandise owned or held by and offered or  
8 displayed for sale by any merchant, store or other mercantile  
9 establishment with the intention and purpose of converting such  
10 merchandise to his own use without paying the merchant's stated  
11 price therefor shall be guilty of the crime of shoplifting and,  
12 upon conviction, shall be punished as is provided in this section.

13 (2) The requisite intention to convert merchandise without  
14 paying the merchant's stated price for the merchandise is  
15 presumed, and shall be prima facie evidence thereof, when such  
16 person, alone or in concert with another person, willfully:

17 (a) Conceals the unpurchased merchandise;



18 (b) Removes or causes the removal of unpurchased  
19 merchandise from a store or other mercantile establishment;

20 (c) Alters, transfers or removes any price-marking, any  
21 other marking which aids in determining value affixed to the  
22 unpurchased merchandise, or any tag or device used in electronic  
23 surveillance of unpurchased merchandise;

24 (d) Transfers the unpurchased merchandise from one (1)  
25 container to another; or

26 (e) Causes the cash register or other sales recording  
27 device to reflect less than the merchant's stated price for the  
28 unpurchased merchandise.

29 (3) Evidence of stated price or ownership of merchandise may  
30 include, but is not limited to:

31 (a) The actual merchandise or the container which held  
32 the merchandise alleged to have been shoplifted; or

33 (b) The content of the price tag or marking from such  
34 merchandise; or

35 (c) Properly identified photographs of such  
36 merchandise.

37 (4) Any merchant or his agent or employee may testify at a  
38 trial as to the stated price or ownership of merchandise.

39 (5) A person convicted of shoplifting merchandise for which  
40 the merchant's stated price is less than or equal to One Thousand  
41 Dollars (\$1,000.00) shall be punished as follows:



42 (a) Upon a first shoplifting conviction the defendant  
43 shall be guilty of a misdemeanor and fined not more than One  
44 Thousand Dollars (\$1,000.00), or punished by imprisonment in the  
45 county jail not to exceed six (6) months, or by both, if the court  
46 finds substantial and compelling reasons why the offender cannot  
47 be safely and effectively supervised in the community, is not  
48 amenable to community-based treatment, or poses a significant risk  
49 to public safety. If such a finding is not made, the court shall  
50 suspend the sentence of imprisonment and impose a period of  
51 probation not exceeding one (1) year or a fine of not more than  
52 One Thousand Dollars (\$1,000.00).

53 (b) Upon a second shoplifting conviction the defendant  
54 shall be guilty of a misdemeanor and fined not more than One  
55 Thousand Dollars (\$1,000.00) or punished by imprisonment in the  
56 county jail for a term not to exceed six (6) months, or by both,  
57 if the court finds substantial and compelling reasons why the  
58 offender cannot be safely and effectively supervised in the  
59 community, is not amenable to community-based treatment, or poses  
60 a significant risk to public safety. If such a finding is not  
61 made, the court shall suspend the sentence of imprisonment and  
62 impose a period of probation not exceeding one (1) year or a fine  
63 of not more than One Thousand Dollars (\$1,000.00), or both.

64 (6) Upon a third or subsequent shoplifting conviction  
65 \* \* \*, the defendant shall be guilty of a felony and fined not



66 more than Five Thousand Dollars (\$5,000.00) or imprisoned for a  
67 term not to exceed five (5) years, or both.

68 (7) A person convicted of shoplifting merchandise for which  
69 the merchant's stated price exceeds One Thousand Dollars  
70 (\$1,000.00) shall be guilty of a felony and, upon conviction,  
71 punished as provided in Section 97-17-41 for the offense of grand  
72 larceny.

73 (8) In determining the number of prior shoplifting  
74 convictions for purposes of imposing punishment under this  
75 section, the court shall disregard all such convictions occurring  
76 more than seven (7) years prior to the shoplifting offense in  
77 question.

78 (9) For the purpose of determining the gravity of the  
79 offense under subsection (7) of this section, the prosecutor may  
80 aggregate the value of merchandise shoplifted from three (3) or  
81 more separate mercantile establishments within the same legal  
82 jurisdiction over a period of thirty (30) or fewer days.

83 **SECTION 2.** This act shall take effect and be in force from  
84 and after July 1, 2018.

