

By: Senator(s) DeBar, Parks

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2211

1 AN ACT TO AMEND SECTION 97-17-33, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE OFFENSE OF BUSINESS BURGLARY, TO CLARIFY THE OFFENSE
3 OF THEFT OF CARGO, AND TO REVISE PENALTIES THEREFOR; TO AMEND
4 SECTION 97-17-42, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
5 CRIME OF CARGO THEFT; TO PROVIDE FOR CERTAIN DEFINITIONS; TO
6 PROVIDE PENALTIES; TO PROVIDE FOR THE CRIME OF UNLAWFUL POSSESSION
7 OR USE OF A FIFTH WHEEL; TO AMEND SECTION 97-25-25, IN CONFORMITY;
8 AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 97-17-33, Mississippi Code of 1972, is
11 amended as follows:

12 97-17-33. (1) Every person who shall be convicted of
13 breaking and entering, in the day or night, any shop, store,
14 booth, tent, warehouse, or other building or private room or
15 office therein, water vessel, commercial or pleasure craft, ship,
16 steamboat, flatboat, railroad car, automobile, shipping container,
17 truck, semitrailer or trailer in which any goods, merchandise,
18 equipment or valuable thing shall be kept for use, sale, deposit,
19 or transportation, with intent to steal therein, or to commit any
20 felony, or who shall be convicted of breaking and entering in the
21 day or nighttime, any building within the curtilage of a dwelling



house, not joined to, immediately connected with or forming a part thereof, shall be guilty of burglary, and imprisoned in the Penitentiary not more than seven (7) years or fined in an amount not to exceed Ten Thousand Dollars (\$10,000.00), or both; but if the total value of damage to and theft of property exceeds Fifty Thousand Dollars (\$50,000.00), the person convicted shall be imprisoned not more than fourteen (14) years or fined not more than Twenty Thousand Dollars (\$20,000.00), or both.

(2) Any person who shall be convicted of breaking and entering a church, synagogue, temple or other established place of worship with intent to commit some crime therein shall be punished by imprisonment in the Penitentiary not more than fourteen (14) years or a fine of not more than Twenty Thousand Dollars (\$20,000.00), or both.

SECTION 2. Section 97-17-42, Mississippi Code of 1972, is amended as follows:

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



value of the motor vehicle involved is One Thousand Dollars (\$1,000.00) or less, the person shall be punished according to the schedule in Section 97-17-43.

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

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

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

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

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

(i) Any vehicle engaged in commercial transportation of cargo or any appurtenance thereto, including, without limitation, any trailer, semitrailer, container, or other



associated equipment, or the cargo being transported therein or thereon, which is the property of another with the intention of depriving such other person of the property, regardless of the manner in which the property is taken or appropriated; or

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

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

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

(ii) If the property taken is one or more controlled substances as defined in Section 41-29-105 with a



collective value of at least Ten Thousand Dollars (\$10,000.00) but less than One Million Dollars (\$1,000,000.00), a person convicted of a violation of this subsection shall be punished by imprisonment for not less than five (5) nor more than twenty-five (25) years, a fine of not less than Fifty Thousand Dollars (\$50,000.00) nor more than One Million Dollars (\$1,000,000.00), or both.

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

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

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



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

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

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

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



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

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

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

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

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

SECTION 3. Section 97-25-25, Mississippi Code of 1972, is
amended as follows:



172 97-25-25. (1) If any person shall unlawfully seize upon any
173 locomotive and run it away, or shall aid, abet or procure the
174 doing of the same, he shall, upon conviction, be fined not less
175 than Five Hundred Dollars (\$500.00) nor more than One Thousand
176 Dollars (\$1,000.00), or imprisoned in the county jail not
177 exceeding six (6) months, or both.

178 (2) If any person shall unlawfully seize upon any locomotive
179 that is engaged in commercial transportation of cargo or any
180 appurtenance thereto, he or she shall be punished as provided in
181 Section 97-17-42.

182 **SECTION 4.** This act shall take effect and be in force from
183 and after July 1, 2018, and shall stand repealed from and after
184 June 30, 2018.

