

By: Senator(s) Seymour

To: Judiciary, Division B

SENATE BILL NO. 2303

1 AN ACT TO AMEND SECTION 97-43-3, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DEFINITION OF ORGANIZED RETAIL THEFT AND ORGANIZED
3 RETAIL THEFT ENTERPRISE; TO AMEND SECTION 97-43-3.1, MISSISSIPPI
4 CODE OF 1972, TO CONFORM; 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 (1) obtaining retail
72 merchandise in quantities that would not normally be purchased for
73 personal use or consumption, for the purpose of reselling or
74 otherwise returning the illegally gained retail merchandise to
75 commerce, by theft, embezzlement, fraud, false pretense or other
76 illegal means; or (2) the recruitment of persons to participate in
77 such criminal activities.

78 (f) "Organized retail theft enterprise" or "organized
79 retail fraud enterprise" means any association of two (2) or more
80 persons who engage in the conduct of or are associated for the
81 purpose of effectuating the transfer or sale of merchandise,
82 services or information that has a pecuniary value that causes a
83 loss to the victim and includes the planned or systematic design
84 or scheme to carry out organized retail theft or organized retail
85 fraud.

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

88 97-43-3.1. (1) It shall be unlawful for any person to
89 conduct, organize, supervise or manage, directly or indirectly, an
90 organized retail theft or retail fraud enterprise. * * * The
91 criminal conduct that may constitute the elements of an illegal



92 organized retail theft or retail fraud enterprise * * * includes,
93 but is not limited to, the conduct proscribed in the following
94 provisions:

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

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

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

100 (d) Section 97-9-79, which relates to false
101 information;

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

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

107 (g) Section 97-45-19, which relates to obtaining
108 personal identity information of another person without
109 authorization.

110 (2) It shall be unlawful for any person who has, with
111 criminal intent, received any proceeds or services derived,
112 directly or indirectly, from an organized theft or fraud
113 enterprise.

114 (3) * * * The value of the merchandise or services or the
115 pecuniary loss involved in a violation of this section may be
116 aggregated in determining the grade of the offense where the acts



117 or conduct constituting a violation were committed pursuant
118 to * * * a single scheme or course of conduct, whether from the
119 same person or several persons, or were committed in furtherance
120 of or in conjunction with an organized retail theft or retail
121 fraud enterprise.

122 * * *

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

