

By: Representative Patterson

To: Judiciary B

## HOUSE BILL NO. 1032

1 AN ACT TO AMEND SECTION 97-43-3, MISSISSIPPI CODE OF 1972, TO  
2 ADD THE DEFINITION OF "ORGANIZED RETAIL THEFT"; TO AMEND SECTION  
3 97-43-3.1, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE PENALTY  
4 FOR ORGANIZED RETAIL THEFT TO CONFORM TO THE PRECEDING SECTION;  
5 AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 97-43-3, Mississippi Code of 1972, is  
8 amended as follows:

9 97-43-3. The following terms shall have the meanings  
10 ascribed to them herein unless the context requires otherwise:

11 (a) "Racketeering activity" means to commit, to attempt  
12 to commit, to conspire to commit, or to solicit, coerce or  
13 intimidate another person to commit any crime which is chargeable  
14 under the following provisions of the Mississippi Code of 1972:

15 (1) Section 97-19-71, which relates to fraud in  
16 connection with any state or federally funded assistance programs.

17 (2) Section 75-71-735, which relates to violations  
18 of the Mississippi Securities Act.



19                   (3) Sections 45-13-105, 45-13-109, 97-37-23 and  
20 97-37-25, which relate to unlawful possession, use and  
21 transportation of explosives.

22                   (4) Sections 97-3-19 and 97-3-21, which relate to  
23 murder.

24                   (5) Section 97-3-7(2), which relates to aggravated  
25 assaults.

26                   (6) Section 97-3-53, which relates to kidnapping.

27                   (7) Sections 97-3-73 through 97-3-83, which relate  
28 to robbery.

29                   (8) Sections 97-17-19 through 97-17-37, which  
30 relate to burglary.

31                   (9) Sections 97-17-1 through 97-17-13, which  
32 relate to arson.

33                   (10) Sections 97-29-49 and 97-29-51, which relate  
34 to prostitution.

35                   (11) Sections 97-5-5 and 97-5-31 through 97-5-37,  
36 which relate to the exploitation of children and enticing children  
37 for concealment, prostitution or marriage.

38                   (12) Section 41-29-139, which relates to  
39 violations of the Uniform Controlled Substances Law; provided,  
40 however, that in order to be classified as "racketeering  
41 activity," such offense must be punishable by imprisonment for  
42 more than one (1) year.



43                   (13) Sections 97-21-1 through 97-21-63, which  
44 relate to forgery and counterfeiting.

45                   (14) Sections 97-9-1 through 97-9-77, which relate  
46 to offenses affecting administration of justice.

47                   (15) Sections 97-33-1 through 97-33-49, which  
48 relate to gambling and lotteries.

49                   (16) Section 97-3-54 et seq., which relate to  
50 human trafficking.

51                   (b) "Unlawful debt" means money or any other thing of  
52 value constituting principal or interest of a debt which is  
53 legally unenforceable, in whole or in part, because the debt was  
54 incurred or contracted in gambling activity in violation of state  
55 law or in the business of lending money at a rate usurious under  
56 state law, where the usurious rate is at least twice the  
57 enforceable rate.

58                   (c) "Enterprise" means any individual, sole  
59 proprietorship, partnership, corporation, union or other legal  
60 entity, or any association or group of individuals associated in  
61 fact although not a legal entity. It includes illicit as well as  
62 licit enterprises and governmental, as well as other, entities.

63                   (d) "Pattern of racketeering activity" means engaging  
64 in at least two (2) incidents of racketeering conduct that have  
65 the same or similar intents, results, accomplices, victims, or  
66 methods of commission or otherwise are interrelated by  
67 distinguishing characteristics and are not isolated incidents,



provided at least one (1) of such incidents occurred after the effective date of this chapter and that the last of such incidents occurred within five (5) years after a prior incident of racketeering conduct.

(e) "Organized retail theft" means (i) the stealing, embezzlement, obtaining by fraud, false pretenses, or other illegal means of retail merchandise in quantities that would not normally be purchased for personal use or consumption for the purpose of reselling or otherwise re-entering such retail merchandise in commerce or (ii) the recruitment of persons to participate in such criminal activities.

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

97-43-3.1. (1) It shall be unlawful for any person to conduct, organize, supervise or manage, directly or indirectly, an organized theft or fraud enterprise. Organized retail theft or fraud enterprise applies to conduct proscribed in the following provisions:

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

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

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

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



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

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

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

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

(3) For the purposes of this section, an "organized theft or fraud enterprise" means any association of two (2) or more persons who engage in the conduct of or are associated for the purpose of effectuating the transfer or sale of merchandise, services or information that has a pecuniary value that causes a loss to the victim.

(4) The value of the merchandise or services or the pecuniary loss involved in a violation of this section may be aggregated in determining the grade of the offense where the acts or conduct constituting a violation were committed pursuant to one (1) scheme or course of conduct, whether from the same person or several persons, or were committed in furtherance of or in 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, 2019.

