

By: Representative Patterson

To: Judiciary B

HOUSE BILL NO. 1036

1 AN ACT TO AMEND SECTION 97-23-93, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE PENALTIES 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 * * * Five
41 Hundred Dollars (\$500.00) 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 where
65 the value of the shoplifted merchandise * * * exceeds One Hundred
66 Dollars (\$100.00), the defendant shall be guilty of a felony and



67 fined not more than One Thousand Dollars (\$1,000.00), or
68 imprisoned for a term not exceeding three (3) years, or by both
69 such fine and imprisonment.

70 (7) A person convicted of shoplifting merchandise for which
71 the merchant's stated price exceeds * * * Five Hundred Dollars
72 (\$500.00) shall be guilty of a felony and, upon conviction,
73 punished as provided in Section 97-17-41 for the offense of grand
74 larceny.

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

80 (9) For the purpose of determining the gravity of the
81 offense under subsection (7) of this section, the prosecutor may
82 aggregate the value of merchandise shoplifted from * * * with the
83 same legal jurisdiction over a period of thirty (30) or fewer
84 days.

85 **SECTION 2.** This act shall take effect and be in force from
86 and after July 1, 2019.

